SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MARCH 23, 2005

8:30 A.M.

(PAGES 3132 THROUGH 3162)

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BY: Official Court Reporter 3132

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Santa Maria, California
Wednesday, March 23, 2005
8:30 a.m.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: Good morning.
COUNSEL AT COUNSEL TABLE: (In unison)
Good morning, Your Honor.
THE COURT: I understand there's an issue you wanted to address before the jury comes in.
MR. SANGER: Yes, Your Honor. May I have just one more second.
Yes, Your Honor, on the issue of the computer testimony, we're going to move to exclude the testimony on the grounds of relevance, lack of foundation with regard to this particular case. And let me outline it quickly.
As the Court is probably aware from pre-trial matters, there were quite a number of computers that were seized. I think there were 14 computers that were somehow allegedly associated with Neverland. The District Attorney has focused on four, and provided us last night with the particular exhibits that they wish to introduce, somewhere around 6:30, 7 o'clock last night. 3134

Those particular items are culled from the voluminous CDs and other materials that were provided in the course of the case, in the course of discovery, but now, for the first time, we can see exactly what they want to introduce and try to divine what the theory is.

I received some other material by e-mail last night after that, which is not of much consequence. The big thing is what was delivered to us by hand.

Basically, the four computers -- none of the four computers that the District Attorney seeks to introduce testimony about have any material on it, on them, that was subject to the time period involved here.

One of the computers has -- or two of the computers have material from 1998, and two of the computers have material from September, October, and November of 2003. Actually, one of the computers, it appears, when it was downloaded by the sheriff's department, that they somehow made a mistake and changed the date to the date that they were examining the material, which is something that's supposed to be avoided. But looking at the material, it appears that there is nothing whatsoever from the time period involved, number one.

Number two, the type of material is such 3135

that it is not probative in this case. It is cached material. That is, material that was caught by the computer because somebody had opened a photograph. And it could have been by an e-mail, it could have been by virtue of somebody surfing the web at a particular time. And it's heterosexual material, and it is not directly related to this case.

Thirdly, the issue of who accessed the material is totally unresolved. There is no way to determine who was using the computer to access this material in November -- September, October, November of 2003, or back in 1998. So there is no probative value if you cannot link that directly to Mr. Jackson or somebody else in this particular case.

I'm prepared to go into more detail to show the Court or explain to the Court what kinds of material we're talking about. But I should also indicate that the material that has been gleaned from these computers is minuscule in comparison with the total amount of material that's on the computers.

So the best that can be said, perhaps, is somebody surfed the web on some of these occasions that have nothing to do with the time period. Very discrete occasions on very specific dates in September and November of 2003. And again, it looks like a very brief four-minute look by somebody in 3136

1998. That is compared to gigabytes of material on the disk of all sorts of other things.
THE COURT: Let me interrupt you and let me hear from the District Attorney.
MR. SANGER: Very well.
THE COURT: Sorry.
MR. AUCHINCLOSS: Good morning, Your Honor. The evidence that we are seeking to introduce here comprises the contents -- the partial contents of four hard drives from three computers. Each of these computers was located in Michael Jackson's bedroom. Not only in his bedroom, but in his private sanctuary, which is upstairs from the primary bedroom area. As you know from the photographs, this is a small room with a great deal of contents. These three computers each contained erotic -- adult erotic materials.
The first one is an Apple laptop. This computer has identifying information on it indicating -- we found a text message that says, "Michael Jackson's Computer" with the date October 12th, '98. We also found text messaging in the form of Internet text messaging, which is a hybrid of e-mail, which provides the name "Apple Head's Computer," a name we also associate with the defendant.
We found teen pornography, or excuse me, teen adult materials on this computer, which we've 3137

downloaded approximately 16 pages.
As far as the time frame of this particular -- the downloading of these materials, we have an associated date of 1998. So clearly -- well, not "clearly," I should say that the computer experts cannot tell us exactly when this material was downloaded. There are ways to manipulate the date. The clock in the computer is not always accurate. If the computer battery runs down, then the clock can go off, and that's some of the testimony that we would adduce in expert testimony in presenting this evidence.
So -- but we do believe that, circumstantially at least, this evidence was downloaded sometime prior to the period of time that the victims in this case were at Neverland.
The next computer, which is identified -- and I should mention that that computer is -- would be Exhibit 626. And it's Item No. 346 as far as the sheriff's records go.
THE COURT: The Apple.
MR. AUCHINCLOSS: Yes.
The next computer is a Vaio desktop computer, Exhibit No. 627, S.B.S.O. Item No. 344. This computer had connection or identification information on it, linking this computer to a Marcel Jackson, which we believe to be a code name, computer code name, for the defendant. We know of 3138

no relative of the defendant named Marcel Jackson. In any event, this computer held downloaded photographs, 1700 downloaded photographs of adult erotic material. We wouldn't seek to introduce 1700. It would have taken us several days to print it, and we've certainly seen enough erotic material. But we would introduce -- we would introduce several pages showing associated porn sites that these images were downloaded from.

The final computer is an Apple desktop, Exhibit No. 628, S.B.S.O. Item No. 347-A. Now, as I mentioned before, this computer has two hard drives in it, apparently not an uncommon feature for some desktop computers. These hard drives are analyzed separately, so we have a second item number with this computer, Exhibit No. 629, and S.B.S.O. Item No. 347-B. This is an Apple PowerMac G-4 also located in the defendant's bedroom. It appears to be quite old. It also arguably or circumstantially could be the computer that was referred to by Star Arvizo when he said there was a desktop computer at the time they visited Neverland.

On the first hard drive for this computer, we located identification information, including text messages from king77tut -- I should say 777tut, privacy969, and a bigmike. Also information dealing with construction of a web page called "Michael's Web Page." This first hard drive had associated 3139

materials on it involving teen pornography -- or
teen adult materials, excuse me, varsityteens.com.
And numerous downloads of adoption agencies,
adoptablekids.com, with associated pictures of
children.
As the Court may recall, Mr. Jackson, I
believe, in the Bashir video mentioned his interest
in adopting children.
Finally, the last hard drive from the same
computer has what is known as WAF Reports. We have
approximately 100 pages in which these reports
indicate Internet sites which were visited by the
user of this computer. It's probably not complete,
but it does indicate that this computer was used to
access sites, adult erotic sites, involving teen
subjects, adoptable kids sites, Disney, toy sites.
Those are the relevant ones.
Now, the purpose of this evidence is to
provide a link between the information that was
adduced from Gavin and Star Arvizo concerning their
viewing of adult materials on defendant's computer
in the defendant's bedroom. We intend to use this
evidence circumstantially to show Michael Jackson
knows how to use a computer. He has four of them in
his bedroom. He has another Apple computer in his
desk in his office. That he knows how to access
Internet sites; that he knows how to access adult
erotic materials on Internet sites. 3140

It's a circumstantial link that provides powerful corroboration for our victim in this case. And the fact that all of these computers have at least some tie in the computer itself to the defendant, in addition to the fact that these computers were located in his very bedroom, certainly provides the necessary link between the defendant and the person who is accessing pornography, or adult material on these computers. So that is what we're introducing. That's the purpose. It's not a very large volume, as you can see. I submitted a copy to the Court. And we'd ask the Court to admit this important evidence. Thank you.

THE COURT: Mr. Sanger.

MR. SANGER: And you have a copy of the book, I guess.

THE COURT: I haven't looked at it, but it's here.

MR. SANGER: That may make it a little easier to follow.

First of all, there's nothing in -- on these computers that in and of itself is illegal. So the question is, what is the probative value of this otherwise lawful material.

Mr. Auchincloss continually used the word "download" as if somebody intentionally downloaded certain items. For the most part, and particularly 3141

as it pertains to any adult images, it was not downloaded. It's a very important distinction. It's in the cache. That means that whenever you're on a computer and you open -- or a picture pops up on your screen, even if somebody had sent an e-mail, or it's one of those automatic nasty things that gets sent to you, that photograph, that image, is automatically cached in your computer.

And without going into a lot of detail - the Court may be aware of this - but many years ago, I don't know if it was 15 years ago or so, maybe 20 years ago, has determined that when we were going to have images downloaded off the Internet, it was too slow for computers to each time look at the image anew and create all the pixels to show it to you on the screen. So therefore, when people look at a picture, or when it just comes up, whether you look at it or not, it comes up on the screen, you go on to something else, that image is automatically cached. And that is the part of the computer where most of this stuff was found.

And I can go through in particular and explain which ones. But the adult material in particular was cached. That means nobody -- nobody -- whether it was Mr. Jackson or anybody else, nobody went and said, "I want to save this picture and I'm going to save it to a particular area." It was simply cached. It came up on the 3142

screen. It could be from surfing the web. It could be from getting nasty e-mails with pictures that automatically pop up in the screen when you look at your e-mails. That's a very important distinction. The next distinction is that the amount of material here is extremely minimal compared to the overall content of this computer, and all the other material that was cached. Going to Time Magazine sites, going to all sorts of legitimate places that people would go when they're using the Internet and they're looking at things, or when they're getting e-mails with legitimate things that pop up. Legitimate -- I shouldn't say "legitimate" as opposed to "illegitimate," but not sexual in nature. All this stuff is lawful, but, you know, not sexual in nature stuff. You know, Time Magazine, sports things, pictures related to all sorts of different things.

So this is not very probative. But I want to take it one at a time, because I think it's very important to see this. And I'd encourage the Court to look at the book, if that's all right.

If you look at their Exhibit 626, which is computer 346, that's Item -- Sheriffs Item 346 --

THE COURT: Yes.

MR. SANGER: The indication -- if you look at the first and second pages, that's all you have there. The first page says, "Michael Jackson's G-3 3143

computer, 10-12-98."
Now, nobody knows who put that there,
whether it was put there to give to Michael Jackson
or some tech person set it up for him or somebody
else did it. Who knows.
The second page is a capture of user and
group data files, which simply means that somebody
had put in there "Apple Head's computer."
Now, the Court's already heard "Apple Head"
is like an informal designation and people are
called that as a term of endearment, so that doesn't
establish even in 1998 that this was really Michael
Jackson's computer. But let's assume that it was.
If you go to pages three, four, five, six,
seven -- let's see here, I think all the way through
to the end -- no, I'm sorry. Through to page 20.
If you go through to page 20, these are simply
cached images.
As you can see, if you look at some of them,
they're actual photographs or images of people or
montages, and then there are also some images of
text. And what happens in these computers is that
text images are also cached, so the next time
somebody goes to, say, the -- some picture that
involved Netscape, or AOL, or some other -- some
other logo, that logo doesn't have to be recreated
on the computer hard drive. The computer can find
the existing logo, and that way it loads a lot more 3144

quickly.
What's even more significant about these pages 3 to 20 is that they were all -- they all showed up on the computer on October 28, 1998, at one time in between 3:57 a.m. and 4:01 a.m. So somebody -- somebody on this particular computer probably got either a series of e-mails that had -- or an e-mail that had these images on it, or they went to a website and these images popped up. There is nothing indicating in these images that whoever was doing this on the computer -- whether it was somebody related to Mr. Jackson, or somebody visiting, or somebody who had the computer before he had it, or whatever, there's nothing to indicate that the person actually entered this website. These are pictures from the cover, as it were, of the website, before the web site's actually entered. If the website had been entered, there would be a whole lot of other pictures.
So in approximately a four-minute period in the early morning hours of October 28th, 1998, these pictures apparently flashed on the screen for some length of time. Couldn't have been too long, given the time that they were recorded.
Now, we will show at some point -- and I don't want to get too far ahead, because I don't think we need to make an offer of proof right now, but there are relatives of Mr. Jackson who have used 3145

his computer. I think we've already had some testimony that there are all sorts of people using computers. Mr. Jackson himself is not particularly inclined to use computers. But there's nothing from 1998 that's going to tie Mr. Jackson to this case. And when I hear the District Attorney saying this is powerful evidence to link Mr. Jackson, that's exactly the problem. It's offered as powerful evidence, and it has virtually no probative value. When you look at 344, which is the next one, 627, look at the -- look at the images there, you'll also find that there are really two users on that computer. There was a Dr. Black, and there was a Marcel Jackson. Those are the screen names. And as the Court knows, you can put any screen name you want. Anybody can say they're Dr. Black or Marcel Jackson.

The images from Dr. Black, whoever that is, were -- primarily came up on the screen and were cached in October, around October 2, 3 and 4, and September 22nd, 24th of 2003, long after this was --

THE COURT: Before you go on, just -- I have a question back on 626, of the last page, 24, in the exhibit list.

MR. SANGER: Yes.

THE COURT: What's the significance of that.

MR. SANGER: 24. I don't have a page 24.

MR. AUCHINCLOSS: It's been provided to you. 3146

MR. SANGER: That's something I was just given this morning.
MR. AUCHINCLOSS: Yes.
Would you like me to answer that, Your Honor.
THE COURT: Yes.
MR. AUCHINCLOSS: Yes. At the very end of each of the files over the offered exhibits is a picture which Detective McCammon would testify that that is the computer, that is its location, and that is the state of the computer when it was originally seized by Detective McCammon.
THE COURT: That's where the computer which housed the hard drive, which is Exhibit 626, was found in the search.
MR. AUCHINCLOSS: Exactly.
THE COURT: All right. Thank you.
MR. SANGER: Okay. All right. So we're now back to --
THE COURT: Just one other question, just so I'm clear. I think I understand this, but 626, the hard drive in 626 is -- well, 627, 628 and 629 are not connected to the hard drive of 626; is that correct.
MR. AUCHINCLOSS: That's correct.
THE COURT: Okay.
MR. SANGER: That may or may not be true, because there is some indication that there's 3147

contamination here, which we can get to. I wasn't going to address that precise issue right now, but it looks like some information from one hard drive got on another, but we'll see.
THE COURT: Do you mean in the forensic process.
MR. SANGER: As far as we can tell, it's not true on the main -- on the disk that we had. It is true on the forensic disk that we were given.
Let me go back to now the second disk that we were talking about, which is --
THE COURT: 627.
MR. SANGER: Their Exhibit 627, and that's Item 344.
Now, that, it's very clear, was used by other relatives and other people related to Mr. Jackson. There's a tremendous amount of e-mail on there back and forth from Marie Nicole, and she obviously used the computer extensively. And she corresponds with people about food recipes, all sorts of things.
As I mentioned, there were two specific user names that the government thought were interesting, and that was Dr. Black and Marcel Jackson. Understand, that of all the other material and other user names, including Marie Nicole, nothing was found. But they find some adult material that again was not downloaded, but was cached, by somebody 3148

calling themselves Dr. Black, and somebody else calling themselves Marcel Jackson.
Now, Mr. Jackson does have a cousin named Elijah who goes by Marcel. We're not going to blame him for this, but -- simply because it's so easy for anybody to use a user name and simply log in, and so who knows what's going on. But Marcel Jackson, according to the evidence on this computer, whoever used that name accessed this computer on November 17th of 2003. And that's when the -- that's when the information was downloaded on this particular computer.
THE COURT: On this exhibit, how do I see that on --
MR. SANGER: You don't. And that's part of the problem, is the prosecutor gave me this book last night. But if you have the disk from the FBI and you look at the disks that were processed and the notable information and other information that they preserved, it is on the material that they had, that the government had, and the FBI agent had downloaded.
In addition, you can go back to the original disk, but I'm just sticking right now with what is already known to the government because their own agents downloaded it so they could see it.
THE COURT: What was the date, the original date, the first visit to the Jackson home by the 3149

Arvizos. What was the date of that.
MR. SANGER: That was in 2000.
THE COURT: 2000.
MR. SANGER: And this is November 17th, 2003. So February and March, the first part of March of 2003, are the relevant time periods for this case. And after that, the Arvizos were never back to the ranch after March 12th or 13th. So we're talking about November 17th. It appears that somebody using a screen name which is similar to a name of Mr. Jackson's cousin, which is the name of Mr. Jackson's cousin, is -- has accessed some basically -- looks like has gone to some sites, or material showed up on the screen on November 17th. Now, given the fact that there's several of them here, it's quite possible a person went to the site. There's a list of some of the sites here, but there's no -- if you look at page six and page seven of that exhibit, there is no indication of when those sites were ever looked at, if they were. And I think there's a date of 10-5-2003 at the top of that as to when that -- that's -- the master site was looked at. Okay.
THE COURT: Okay.
MR. SANGER: Now, if you go to the next computer, which is Exhibit 628, and that's Computer No. 347-A, there are two hard drives, there's the A and the B. If you look at that on 347-A, we're 3150

hearing that this could be the desktop -- I just heard Mr. Auchincloss say this could be the desktop Star Arvizo saw, but remember his testimony was it didn't work.
The images on this actually are also listed to a certain extent on 647-B, so there's apparently some exchange between these two hard drives. And they could be, to a certain extent, mirror drives.
I give the Court as an example, there's a -- and again, nothing here is unlawful, nothing whatsoever. But there's something that's not even -- has no relevance to this case called, "The Funniest Grudge." And it's something taken off the Internet, which is an attempt at humor with regard to Mr. Jackson. And that shows up both on A and on B.
Now, the problem with A is that apparently when the forensic people went to download this material, they converted the time and the date to February 26, 2004. So for 347-A, there is no ability to go back in and determine whether or not -- or when these things were actually recorded. And as I say "recorded," if they're caught in cache, it's because the image popped up on the screen at some point. But there's just no way to tell from the disk that was converted by law enforcement, because they converted the date on it.
And once again, they talk about some -- what Mr. Auchincloss called teenage websites. And 3151

actually, it's the same thing as the "Barely Legal" or anything else. These are perfectly lawful. It's over 18, 18-or-over kind of websites, but it appears that it's a website that was not entered. It's a website that was not entered. We don't know when because it says, "February 26, 2004," and we assume it was not the FBI that was entering the website, so that was that.

Now, the other thing about adoption is just completely off the wall. It's prejudicial. There's absolutely no probative value. Mr. Jackson did say --

THE COURT: Isn't the probative value that it would tie Mr. Jackson to the computer that he was interested in adopting children or --

MR. SANGER: Anybody in his household could be interested in that. Grace Rwaramba, for instance, his nanny --

THE COURT: I'm asking you -- I'm not asking you for other reasons. Isn't that the probative value.

MR. SANGER: If you could show Mr. Jackson used the computer, yes.

THE COURT: Wasn't that how you show maybe he used the computer, because he's interested in adopting children.

MR. SANGER: The key word would be "maybe." I'm not arguing with the Court. 3152

THE COURT: “Maybe,” I can use that word.
MR. SANGER: Yes. And I’m just focusing --
that’s the -- that’s the probative value versus the
prejudicial effect. The probative value is very
weak on this. The adoption website simply shows --
it’s not many pictures, but it shows pictures of
both boys and girls. And it looks like somebody had
looked at an adoption website for whatever purpose.
It’s certainly not illegitimate, and there’s nothing
salacious about that, unless the District Attorney
wants to argue that it’s a powerful link somehow to
this particular case.
Now, when you go to 347-B, we have yet
another problem.
THE COURT: That would be 629.
MR. SANGER: Yes, I’m sorry. That’s the
last one. There’s a new Exhibit 629 computer, which
is logged in as 347-B.
They have these W-A-F reports in there that
show that people could abuse this computer for going
to websites. They could have gone to the websites
for just a very brief period of time, and we don’t
know. It could have been anybody, and it could have
been at any time, because the W-A-F Reports don’t
have any dates.
The interesting thing is that on this
computer -- and here’s where contamination is a
problem. On this computer, 347-B, you have the 3153

exact same cached material that you have on 626. Those few pictures -- it's not -- I don't think they copied them here. They didn't copy them here, but it's on the disk that law enforcement prepared. It's -- the very same cached material on 347-B is the material that we talked about in the very first computer, which was -- which you saw, you saw the pictures of it, the ones we talked about where somebody had gone -- or those pictures had come up in an e-mail, or they had come up by somebody going to a site, they did not enter the site. And it has the very same date of October 28, 1998, on it. Now, the very same time, from 3:57 a.m. to 4:01 a.m. So it is somehow that those images are duplicated on this totally different computer. And it's impossible to tell whether this is contamination caused by the government, or if it's contamination -- or there is some other explanation. But it's hard to imagine what explanation there would be for that since these are simply cached images.

And it would be extremely improbable that the exact minute -- and, in fact, it breaks it down into seconds -- the exact seconds, the same exact images were retrieved in this four-minute period on October 28, 1998, by two separate -- completely separate computers.

So having -- having said that, the probative 3154

value of this is extremely weak. It doesn't tell us anything about the events of this case. It doesn't tell us anything about the testimony of the witnesses in this case. The state of the evidence is there are computers around. There's a desktop computer that didn't work. The government now wants to say it's one of these. But that's that. That's the evidence. The fact that somebody at some time later may have accessed some adult sites that are all heterosexual, most of them are just topless pictures, that somebody accessed that completely lawful material in September, October, and primarily November of 2003, or somehow, on two of these computers, at exactly the same nanosecond, somehow ended up with cached pictures from one website in 1998, there's just no probative value to that.
The prosecution's homework hasn't been done, because this is not in proper order and it was given to us at the last minute, culled from everything else they had. But if it's done, I don't see how they could possibly get to the point where this is probative, and I think it does tend to be very prejudicial.
And when you hear Mr. Auchincloss talk about it as a powerful link, I assume that's a prelude to his closing argument, or somebody's closing argument on that side, and that's exactly what it is not, and that's why it should not come in. 3155

Thank you, Your Honor.
MR. AUCHINCLOSS: Just a few remarks, Your Honor.
First of all, as with all circumstantial evidence, you have to look at the evidence in the context of all the evidence in the case.
In this case, they are saying that it is just a coincidence that in these four -- or these three computers, these four hard drives, it's just a coincidence that they have erotic materials on them. It's just a coincidence that they have teen erotic materials on them. It's just a coincidence that all three of these computers are found in his private sanctuary, his bedroom. It's just a coincidence that Gavin Arvizo and Star Arvizo were shown erotic materials in his private bedroom. And it's just a coincidence they were shown the same type of erotic materials, teen erotic materials.
THE COURT: How could they have been shown these materials, though.
MR. AUCHINCLOSS: Well, we're not saying they were shown these materials. It's conceivable, and it's possible that the computer from '98 has information on it that was shown to these children. But as you may recall, Gavin Arvizo took that computer that he believes -- he wasn't sure, but he believes that was the computer, the computer he viewed the images on in Mr. Jackson's bedroom, 3156

that computer was the computer he was given. And as you also know, that computer ultimately made its way back to Mr. Jackson after it was broken. So we can assume, circumstantially perhaps, that that computer is discarded and gone. But, if it wasn't the computer, it's possible -- I don't think it's probable, but it's possible that one of these computers was the very same computer that Gavin Arvizo observed this pornography on.
And I might mention that the computer that has these older images on it is the same computer that Gavin Arvizo picked out of a lineup of computers as being the one most like the computer that was given to him. But again, it doesn't tie it up perfectly.
The bottom line here is, is that this is circumstantial evidence that this defendant views teen pornographic, or erotic materials, on computers in his bedroom, which is one of the most important aspects of our -- was one of the important aspects of our case. And, as you know in these cases, it's always a matter of the credibility of the young victim. So corroboration is always highly probative to show that -- these young victims, when they're telling the truth. And I don't think you can just say it's a coincidence that these materials are on these, all three of them, and all in his bedroom, and all seeking the same sites. 3157

Now, I will mention a few things Mr. Sanger said were wrong.
First of all, in the very first group of information, Exhibit 626, we have an Internet cache in the back of that exhibit. This is a history, just like you and I have on our computers. It shows the history of sites that were recently visited or most recently visited. And they're virtually all -- we've got "Teen Steam," "Gatefold," numerous hits to "Teen Sleaze," "slut1.com."
THE COURT: What are you referring to.
MR. AUCHINCLOSS: I'm referring to page 22 of 626. The Netscape history of showing the sites that were most recently viewed.
THE COURT: By "recently viewed," what does that mean.
MR. AUCHINCLOSS: Recently, the last sites that were viewed on this computer.
THE COURT: In 1998.
MR. AUCHINCLOSS: Well, some of these sites you can see go to 2001. There's one here that says, "Karas Adult 2002, 3, 01." That's on page 23. And that would be within the time frame that the Arvizo children were on Neverland.
But more importantly, it shows knowledge. It shows he understands how to use computers, which not everyone does, and it shows his familiarity with the Internet and Internet adult sites. 3158

As for --
THE COURT: The testimony wasn't that he went on line, the testimony was that someone else went on line, right. I mean, when the children say they saw the -- it was the other person in the room that --
MR. AUCHINCLOSS: Frank.
THE COURT: Frank.
MR. AUCHINCLOSS: Frank was operating the computer at the time, but it was Mr. Jackson -- we are saying it is our position that Mr. Jackson is showing this porn to -- or this adult material to these children.
Now, as far as the legality of it, you know, they advertise themselves as being teen pictures. We don't know. As far as -- the bulk of Mr. Sanger's arguments go to weight. He can ask our witness, our expert witness, what percentage of these -- of the total information on these computers comprise this type of information. But as with any computer that holds a tremendous volume of this type of information, every fragment is going to be a small percentage of the whole.
THE COURT: Do you have another witness you can put on, other than the one you were going to call for this, right now.
MR. AUCHINCLOSS: Possibly.
THE COURT: I have some severe reservations 3159

about allowing you to put this on, so I'm going to ask you to call another witness. I may require some further foundation outside the presence of the jury with your expert.
MR. AUCHINCLOSS: All right.
THE COURT: I need to -- I'm not prepared to rule at this moment on it, although I am leaning towards excluding it.
MR. AUCHINCLOSS: I guess the next step would be to file some points and authorities on it for you. But if you would like to call -- I think maybe the best thing to do would be to allow us to have -- to call our expert, and have you question him, and we can question him, and maybe focus your concern --
THE COURT: The problem with that is the jury is sitting waiting. And I've asked that we -- you know, when we have these type of issues that we set them at times when the jury's not here, and we use the jury for evidence that they can hear.
MR. AUCHINCLOSS: Can you tell me what -- can you tell me what your concern is so that I may attempt to address it.
THE COURT: No. Do you have another witness.
MR. AUCHINCLOSS: We can -- we'll check, Your Honor. We'll see who's available.
THE COURT: All right.
(Recess taken.) 3160

THE COURT: What I want to do is take the break now, while you're looking for a witness, so you don't just start the witness.

So we'll take a 15-minute break now while you find your witness.

(Recess taken.)

--o0o--

REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 3134 through 3161 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 23, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, March 23, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MARCH 23, 2005

8:30 A.M.

(PAGES 3163 THROUGH 3320)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 3163

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28 3164

I N D E X

Note: Mr. Sneddon is listed as “SN” on index.
Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
Mr. Franklin is listed as “F” on index. Mr. Mesereau is listed as “M” on index.
Ms. Yu is listed as “Y” on index. Mr. Sanger is listed as “SA” on index.
Mr. Oxman is listed as “O” on index.

PLAINTIFF’S WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
COOLEY, Robert Charles	3168-SN	3175-M	3189-SN	3190-M
PADILLA, Freddy	3191-SN	3209-M		
BONNER, Craig	3224-SN	3259-M	3280-SN	
	3260-SN	3262-M		
	(Further)	(Further)		
CANTU, Antonio A.	3283-A	3313-SA		

1 E X H I B I T S
2
3 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
4
5 151 Photograph of two bottles of alcohol 3259 3260
6 295 Photograph corresponding
7 to Exhibit 471 3244
8 471 Various items contained through in Exhibit 470
9 529 3244
10 530 Magazine pages/ through magazines
11 551 3234
12 552 Brown bag containing book 3207
13 554 Binders containing through magazines
14 560 3227
15 626 Apple laptop, Power G-3 3279
16 627 Vaio Model PCV-W20 3279
17 628 Apple Power Mac G-4 3279
18 629 Apple Power Mac G-4 3279
19 632, Photographs corresponding 634 to Exhibits 473-477, 479-481
20 through 483, 485, 487-492, 494-508 681 510-525, and 528 3244
21 682 Photographs of cover sheets
22 through of Exhibits 554 through 560 688 3228 3229
23 689 Photographs of front covers
24 through of Exhibits 530 through 551 3236 709
25
26
27
28 3166

1 E X H I B I T S (Continued)
2 FOR IN
3 PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
4 720 Brown evidence bag
5 containing a white envelope with Dieter Weizner's
6 and Udo Schaar's names and phone numbers 3256 3257
7 721 Photograph of Macaulay
8 Culkin 3257
9
10
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(The following proceedings were held in open court in the presence and hearing of the jury:)

THE COURT: (To the jury) You didn't get it. It's "Simon Says."

All right. Call your next witness.

MR. SNEDDON: Detective Cooley.

THE COURT: Actually, we've been in session, even though you haven't been here. We were handling some issues that we had to handle. That's why it was not a formal introduction.

THE CLERK: Please raise your right hand.

ROBERT CHARLES COOLEY

Having been sworn, testified as follows:

THE WITNESS: I do.

THE CLERK: Please be seated. State and spell your name for the record.

THE WITNESS: My name is Robert Charles Cooley. Last name, C-o-o-l-e-y.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. SNEDDON:

Q. Good morning.

A. Good morning. 3168

Q. You're employed by the sheriff's department, correct.
A. Yes, I am.
Q. How long have you been with the sheriff's department.
A. Be 25 years in July.
Q. And what are your current assignments.
A. My current assignment is I'm a detective stationed out of the Santa Ynez/Solvang station.
Q. Back on November the 18th of 2003, were you involved in the execution of a search warrant at the Neverland Valley Ranch.
A. Yes, I was.
Q. And were you assigned some specific responsibilities in connection with the execution of that search warrant.
A. Yes, I was.
Q. And what responsibilities -- what was your primary responsibility that day.
A. My primary responsibility was as a scribe at the arcade building on that property.
Q. Would you explain to the ladies and gentlemen of the jury just what it means to be a scribe in connection with the execution of a search warrant.
A. Being a scribe means that you're responsible for taking and seizing all evidence that's located by other searchers, and then packaging and sealing 3169

that evidence and documenting that evidence on a report.
Q. All right. Did you do that on that particular day in the arcade.
A. Yes, I did.
Q. And did you do it in conjunction with some particular officers.
A. Yes, I did.
Q. And Officer -- Detective Conn Abel was one of the people you worked with that day.
A. Yes, he was.
Q. And when you set up business or set up your location in the arcade, particularly where did you set up your position to become a scribe. Where you did your scribing, I guess would be the best way to put it.
A. There were actually a couple locations. Down where we did the first floor, I just set up on a table down there. And then when we moved up there to a library area in that same building, I was right outside the library door.
Q. And what about when you went in the cellar.
A. We went in the cellar. That stuff was actually brought back to the table that was on the first floor.
Q. Okay, good. Now, I'm just going to show you a few items here.
MR. MESEREAU: Excuse me, can I see them 3170

1 before they’re --
2 MR. SNEDDON: I thought you had.
3 MR. MESEREAU: I follow.
4 MR. SNEDDON: 581, 582 and 583.
5 MR. MESEREAU: Oh, okay.
6 Oh, all right. Okay, thank you.
7 Q. BY MR. SNEDDON: All right. Let’s talk
8 about the first one. It’s an item designated in
9 this case as Exhibit 581. Do you see that.
10 A. Yes, sir, I do.
11 Q. And inside of that are three books in a
12 brown paper bag. Do you see that.
13 A. Correct.
14 Q. Do you recognize the brown paper bag.
15 A. Yes, I do.
16 Q. When and where was the first time you saw
17 that brown paper bag.
18 A. That would have been when the items were
19 seized from the cellar area, and I placed them in
20 that brown paper bag, and that’s my writing on the
21 outside of that brown evidence bag.
22 Q. So the white -- the white piece of paper
23 with the black writing is your handwriting; is that
24 correct.
25 A. Yes, it is.
26 Q. And with regard to that particular item,
27 581, did you put those books into that brown paper
28 bag. 3171

A. Yes, I did.
Q. And what did you do with the brown paper bag after you put the books inside of it, into 581.
A. I sealed it, and then initialed and wrote my name on the outside of the evidence tag, seal itself.
Q. And do you see those initials now.
A. Yes, they're still there.
Q. Okay. Now, why don't you put that item aside.
Now, currently -- let me just ask you this.
Currently that's in a plastic bag, the whole brown paper bag with the three books.
A. That's correct.
Q. Do you have any knowledge about where the plastic bag came from.
A. Not of this bag, but I know of the nature, why this bag was used.
Q. Why was that.
A. This is because occasionally if evidence is going to be reviewed, it's opened, that the paper bag starts to get fragile and can't be sealed properly, and then they'll place it back in another larger bag, in this case this plastic bag, and reseal the plastic bag.
Q. And that's a procedure you've used before.
A. Yes, it is.
Q. Now, let's direct your attention to Item 3172

582, which is in evidence here. You've picked up a brown bag, correct.
A. Correct.
Q. Do you recognize that bag.
A. Yes I do.
Q. And when and where was the first time you saw that particular bag.
A. This bag with this book was found up in the -- correction. The book was found in the library area in the upper story of the arcade building.
Q. Yes, sir.
A. And I placed this book inside this paper bag, and this is my handwriting on the white tag on the outside.
Q. And after you put the bag -- after you put the book into that particular bag, what did you do with it.
A. Then I sealed the paper bag and wrote my name on the outside of the seal.
Q. And you see the seal and your initials on the bag.
A. Yes, it's still there.
Q. Okay. Now, let's look at 583 if we can. 583 is a smaller brown paper bag, correct.
A. Correct.
Q. All right. And when and where was the first time that you saw that particular bag. 3173

A. This also was from the library in the upper story of the arcade area.
Q. You're talking about the item that's inside the bag, correct.
A. Right.
Q. And that was given to you by somebody.
A. Yes, it was.
Q. And who was that.
A. At this point I don't recall. It would have been one of the searching detectives that was in the library at the time.
Q. So they gave it to you and you put it in the bag and it has a white piece of paper with writing on the front, correct.
A. Correct.
Q. And is that your handwriting.
A. Yes, it is.
Q. Now, did you also seal that particular bag.
A. Yes, I did.
Q. Do you see the place where you sealed it and your initials.
A. It's still there.
Q. Now, with regard to the Items 581, 582 and 583, after you sealed them, you put the items that were given to you by the officer, seizing officer, put them in the bag, you sealed it, and you put the identification information on the front as you've told the jury. 3174

What did you do with those three particular items after that.
A. After they were sealed and we were -- we concluded our search, these were turned over to forensics detectives at the search warrant scene, the front of the main house.
MR. SNEDDON: All right. Thank you. No further questions.
THE COURT: Questions.
MR. MESEREAU: Yes, please, Your Honor.

CROSS-EXAMINATION
BY MR. MESEREAU:
Q. Good morning.
A. Good morning.
Q. You said your function was to be a scribe.
A. That's correct.
Q. And as a scribe, do you do any search yourself.
A. Occasionally we will do searching also, depending upon how large the area is.
Q. Did you search anything on that particular day, November 18th.
A. I believe so, I did, yes.
Q. What did you search.
A. I assisted in the search of the downstairs arcade building, and actually the whole building, the arcade, the cellar and the upstairs library 3175

area.
Q. Now, you indicated that as a scribe, you --
I think you said words to the effect, you were at a
location where people would bring items to be seized
to you.
A. Correct.
Q. And where was this location that you were
talking about.
A. In particular, downstairs, the first
location was at the front of the arcade on a table
there. And then when we moved upstairs to the
library area, was right outside the door of the
library.
Q. And were you sort of searching and then
being a scribe, and then searching and being a
scribe, or just being a scribe the whole time.
A. No, I was doing some searching, and if
somebody found an item of evidence that needed to be
seized and packaged, then I would do my job as the
scribe, seize the item, package and then seal it.
Q. Do you package and seal to prevent
contamination.
A. I package and seal to preserve the evidence
that's given to me.
Q. Do you package and seal to prevent
contamination.
A. If I'm following you, to -- I'm not exactly
sure what you're looking for contamination-wise. 3176

Q. Do you know what contamination of evidence means.
A. Fingerprints, et cetera. Is that what you're looking for.
Q. I'm asking if you know what contamination of evidence means.
A. I guess I'm not following the course. When it's given to me, I package it as it's given to me.
Q. Let me -- maybe I'm not being clear. Have you ever heard of the word "contamination" when it comes to evidence.
A. Yes.
Q. What does that mean to you.
A. It depends a lot on the evidence. If it's evidence that we think might need to be fingerprinted, then it's placed in a paper bag and sealed. If it's evidence that we think might need, say, DNA, for instance, it's packaged and sealed accordingly to keep others from touching it.
Q. Were any of the three items in front of you packaged and sealed to prevent contamination.
A. Well, I was the last one to handle it, so it was packaged in there, and then it wasn't my call whether it needed to be fingerprinted later on. So I just packaged it, I was the last one to handle it, packaged it like I would normally package evidence, and then it was turned over to forensics.
Q. Did you package it to preserve the items so 3177

it could be fingerprinted.
A. I would have to say I did. I was the last one to handle it, and it was sealed and turned over to forensics.
Q. Were the three items that you packaged and sealed packaged and sealed to preserve the ability to do any DNA testing.
A. That, again, would not have been my call. I was wearing gloves, when I was packaging evidence, so if anything later on needed to be completed, fingerprinting, DNA evidence, it was packaged in paper to preserve that, and then turned over to forensics, and then forensics would have made the call as to how they handled it after that.
Q. So am I correct in assuming that you packaged and sealed those three items to preserve the possibility of both fingerprinting and DNA testing on those items.
A. That's one of the reasons why they're packaged and sealed immediately, yes.
Q. And what are the other reasons why they're packaged and sealed immediately.
A. To prevent a confusion as to evidence being seized and who seized it.
Q. Now, when you turn them over to forensics, you're saying it's their responsibility to decide whether they're going to test for fingerprints or not. 3178

A. Not exactly. It would probably be the lead investigator or the investigators on the case that would decide what they were going to have fingerprinted and what they were going to have tested for DNA.
Q. Now, in your function as a scribe, does it ever happen that someone says to you, “See this evidence. We’re going to do fingerprinting testing”.
A. Has it ever happened to me.
Q. Yes.
A. Yes.
Q. It didn’t happen in this case, correct.
A. In --
Q. With respect to these three items.
A. In this particular case, with respect to these three items, I was not told specifically that these were to be fingerprinted. I just packaged them like I would normally package them.
Q. And you were not told specifically that anyone wanted to do DNA testing on those three items, correct.
A. That’s correct.
Q. And who handed those items to you.
A. They would have been the searching detectives that were assigned to that building. And I do not recall who specifically handed these items to me. 3179

Q. Don’t you normally note that on the item.
A. Not normally in the course of search warrants that I’ve conducted. It’s my responsibility to take the item and then package it and seal it as the seizing deputy.
Q. In terms of determining what is called “chain of custody,” meaning who had possession of the item at a particular time, don’t you normally note that on the package.
A. No, because I become -- in my particular job, I become the seizing detective. Each of these items was photographed where it was located, and then brought to me, and I packaged it, became the seizing detective, and became responsible for the evidence.
Q. And is any record made, to your knowledge, of -- excuse me, let me rephrase that.
Was any record made, to your knowledge, of who in particular gave you either of those three items.
A. Not to my knowledge. I have the detectives listed in my report that was on scene at the time.
Q. If you wanted to determine who gave you one of those three items, what would you do.
A. Probably have to go back to the detectives that were on scene and ask them if they remembered actually locating that item.
Q. You would have to rely on their memory. 3180

A. Correct.
Q. To your knowledge, no written record is made when someone hands you an item of evidence that may later be used in a case.
A. It wasn't done in this case, no.
Q. It wasn't done in this case.
A. No.
Q. Well, you're aware that approximately 69 people related to the sheriff's department descended on Neverland on that particular day, right.
A. Correct.
Q. And do you know how many of those 69 people or approximately 69 people were involved in the search.
A. Of the arcade building.
Q. Of any part of Neverland.
A. Not exactly, no.
Q. You had a meeting of those who were going to be involved in the search before you arrived, correct.
A. Correct.
Q. And guidelines were given to everyone before you entered Mr. Jackson's premises, right.
A. Assignments were made, yes.
Q. And are you telling the jury that there was no procedure to ensure if someone took a piece of evidence or whatever they wanted to use it for and handed it to another officer, there was no procedure 3181

to identify who did that.
A. Not that I recall that was brought up at the briefing.
Q. What was brought up at the briefing, now.
A. Again, assignments, as to who was going to be searching what part of the ranch.
Q. But what I'm saying is this: Aren't reports typically made -- if someone decides, for whatever reason, good, bad, or indifferent, to focus on a particular item, pick up that item, take it to a scribe, like yourself, are you saying there is no record made of who actually initially retrieved the item and for what reason.
A. I did not make a record of that, no. I became the seizing detective.
Q. Okay. So in other words, what you're saying is, the, quote, seizing detective is responsible for packaging items, but not responsible for determining how those items even got to he or her, correct.
A. I can tell you which part of the arcade building these items came from.
Q. But you can't tell me who handled them before you did, right.
A. No.
Q. And you can't tell me where they were found before you got them, right.
A. Only if I go back and look at the photographs prior to them being brought to me. 3182

Q. And were they photographed before you got them.
A. Yes.
Q. Okay. Would the photographs identify who did the photographing.
A. The photographs would have on them who actually took the photo.
Q. Would the photographs identify who actually retrieved the item initially.
A. That I don't know. I would have to look at the photograph to see if the detective who actually located the item is in the photo.
Q. Well, you're aware in this case I think -- and tell me if you're not. But I think you're aware that there have been photographs taken of magazines, for example, that were allegedly in particular locations at Neverland, right.
A. I was not aware of items seized or photographs taken in other portions of the ranch except for the arcade building.
Q. Well, if it became an issue in a case like this how a particular magazine was in a particular location, or how a book or a magazine got out of a box, for example, that it initially was in, are you saying no record is made of who would have put their hands in the box and picked the book or magazine out.
A. In my case, with these three items, that was 3183

not done.
Q. Do you know why that wasn't done.
A. Actually, no, I don't.
Q. But wouldn't you agree that in many other
situations you've been in, it has been done.
A. I have never done it acting as a scribe.
I've always just seized the item, made sure it was
photographed prior to it being moved and brought to
me, or if I actually went and retrieved the item,
I made sure it was photographed before I moved it
and seized it.
Q. I'm sorry, I didn't --
A. That's okay.
Q. Did you finish.
A. Yes, I had.
Q. Let me ask you this: Let's take one of
those books, okay. Doesn't matter which one. Let's
assume the book is found in a bookcase, all right.
A. Okay.
Q. Now, you know there were lots of bookshelves
in the library area, correct.
A. Correct.
Q. There were lots and lots of books all over
the library, right.
A. Correct.
Q. And you probably didn't count them, but you
certainly saw shelf after shelf after shelf, right.
A. Yes. 3184

Q. And along with the shelves, you saw boxes everywhere, right.
A. Right.
Q. And there were books found in those boxes, right.
A. Correct.
Q. Now, if someone opens a box, takes a book out, places it on the ground, looks at other books, takes them out, puts them on the ground, and somewhere in that search finds something they want to give to you, there's really no record of knowing where that particular item was when it was first seen, correct.
A. Correct.
Q. In other words, if someone took a bunch of books out of a box, laid them around, and decided to focus on one of them, there would be no way of knowing if that person even placed that book in a particular location when it was photographed, right.
A. Correct.
Q. The only real record would be that that particular book was given to you and as the scribe, you're responsible for saying, "We found this in this area," right.
A. Correct.
Q. And you're aware that sometimes it becomes an issue in an investigation as to where something actually was located initially, right. 3185

A. Correct.
Q. In other words, if something's in a box, it might suggest something different than if something is up on a shelf in plain view, right.
A. Correct.
Q. You're saying that in this particular investigation at Neverland, with approximately 69 sheriffs searching, no provision was made to identify exactly who found an item first and where they found it, right.
MR. SNEDDON: I'm going to object as beyond the scope. I'm going to object lack of foundation as to other officers. He can only speak for himself
THE COURT: All right. You're -- sustained.
MR. MESEREAU: Okay.
Q. Was the intention, as far as you're concerned -- I'm only talking about your work as a scribe. Was the intention to make sure you were the only person that could identify something that was found in the area where you were searching. In other words, was the intention the following: "If an item is used in the courtroom, the records will indicate that I'm the only one responsible for identifying where that item was found".
A. I think the intent was just to try to minimize the number of people that may have to step up and say, you know, "Yes, this item was seized and it was seized from the arcade building during the 3186

course of this search."
Q. Uh-huh. Now, the word "scribe" suggests someone who writes something, obviously, but you were doing more than that, right.
A. Correct.
Q. And if someone made the decision that a particular item found was going to possibly be used in the case, did you then stop your searching and go down and do the sort of scribe-type function.
A. Yes.
Q. And how much time did you spend in the library that day, if you remember.
A. I don't recall.
Q. And was it a lot of time.
A. We were there for all day. And I don't recall exactly how much time we spent in the library, no.
Q. Were you looking at books in the library yourself.
A. Yes, I was looking.
Q. Were you going through the shelves to see what books were on the shelves.
A. I don't recall exactly what part of the library I searched, but I'm sure I looked at some of the books on the shelves.
Q. Well, was your desire to sort of go book by book and see sort of what each book was.
A. I don't recall if I actually pulled every 3187

book out. I think I was just more looking to see what was in the general area. The library was quite crowded, so I mainly stayed back at the door to do the seizing.
Q. And to your knowledge, was any effort made to forensically determine who had been in the library and looking at those books.
A. Forensically.
Q. Yes.
A. Like fingerprints afterwards, or --
Q. Sure.
A. To the best of my knowledge, that I recall, everybody was wearing gloves when they were doing their searching, so if you're -- I'm not sure exactly what you're asking, here again.
Q. Well, everybody was told -- excuse me, that's not the right word.
People were directed into the library, walked wherever they wanted to walk, right. Looked around as they chose. And if they saw a book somewhere that interested them, bring it to you, right.
A. That's correct. We have a list of people that were in the library.
Q. And three books were brought to you.
A. These three items here.
Q. Yes. Those three items that were brought to you. 3188

A. Okay.
Q. After those three items were brought to you,
did you continue looking at books.
A. I think, if I recall correctly at this
point, there was evidence coming out of the library,
and I mainly stayed at the door and did the seizing
and the scribing.
MR. MESEREAU: Okay. No further questions.
THE COURT: Redirect.
MR. SNEDDON: One question, Your Honor.

REDIRECT EXAMINATION
BY MR. SNEDDON:
Q. I think you told the jury before that one of
the ways that you ensure the integrity of where the
evidence came from is that you photograph in place
before it's picked up and taken.
A. That's correct.
Q. Is that a procedure that you use.
A. Yes, it is.
Q. To your knowledge, is that a procedure that
was used this day.
A. Yes, it is.
MR. SNEDDON: No further questions.
MR. MESEREAU: Very briefly, Your Honor.
//
//
// 3189

RECROSS-EXAMINATION
BY MR. MESEREAU:
Q. Mr. Sneddon used the word “in place.”
Please tell the jury what the word “in place” means, to you.
A. To me, “in place” means that the item was photographed where the searching detective located that item.
Q. Now, if an item is found at the bottom of a box, pulled out of the bottom of the box and then photographed, there is no guarantee it’s going to be photographed at the bottom of the box where it was found, correct.
MR. SNEDDON: Your Honor, I’m going to object as assumes facts NOT in evidence, that it wasn’t photographed in place.
THE COURT: The objection is sustained, but I’ve warned you not to use speaking objections.
MR. SNEDDON: All right.
THE COURT: Objection sustained.
MR. SNEDDON: Lack of foundation.
MR. MESEREAU: No further questions, Your Honor.
MR. SNEDDON: I have no further questions.
THE COURT: Thank you. You may step down.
MR. SNEDDON: Deputy Padilla.
THE COURT: Come to the front of the courtroom, please. When you get to the witness 3190

stand, please remain standing. Face the clerk and raise your right hand.

FREDDY PADILLA
Having been sworn, testified as follows:

THE WITNESS: Yes, I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: My name is Freddy Padilla. F-r-e-d-d-y; Padilla, P-a-d-i-l-l-a.
THE CLERK: Thank you.
MR. SNEDDON: Why don't you hand me those, these bags. Thank you.

DIRECT EXAMINATION
BY MR. SNEDDON:
Q. All right. Detective Padilla, how long have you been -- you're with the sheriff's department, correct.
A. Yes, sir.
Q. How long have you been with the sheriff's department.
A. 11 years.
Q. And with regard to your current duty assignment, what is that.
A. I'm a detective with the sheriff's office.
Q. And in what capacity are you a detective. 3191

A. I work personless crimes.
Q. On November the 18th of 2003, did you participate in the execution of a search warrant at Neverland Valley Ranch.
A. Yes, sir.
Q. What were your particular duty responsibilities that day.
A. I was assigned to package the items of evidence seized by the investigators and deputies at the Neverland Ranch.
Q. Was there a particular location that you were assigned to.
A. Yes, sir.
Q. Would you tell the jury where you were assigned to.
A. The main house of the residence.
Q. And was there a certain location within the main house.
A. Yes, sir.
Q. Where was that.
A. It was in Mr. Jackson's bedroom.
Q. And in connection with the execution of your responsibilities -- maybe I didn't ask you this. What was your responsibility.
A. The investigators would locate items of evidence, seize them, and deliver them to me, and I would package them and seal them, and according to what they described, I would write on our SH-451, 3192

1 our sheriff's property form.
2 Q. Did you have a computer there handy where
3 you did this work on --
4 A. Yes, sir.
5 Q. -- as it was given to you.
6 A. Yes, sir.
7 Q. And on that particular day, you were given a
8 number of items; is that correct.
9 A. Yes, sir.
10 Q. All right. And....
11 MR. SNEDDON: Your Honor, I'm going to need
12 a second to retrieve a number of bags from over
13 here.
14 THE COURT: All right.
15 Q. BY MR. SNEDDON: I'm going to hand you an
16 exhibit marked as 580, clear plastic bag, binder
17 inside of it, in a brown bag, and ask you if you
18 recognize the Exhibit 580.
19 A. I don't recognize the item, but I recognize
20 the packaging and my writing.
21 Q. All right. And you said -- by "packaging,"
22 what do you mean by "packaging".
23 A. The brown paper bag. These are the bags
24 that I used at the Neverland Ranch, and I wrote down
25 the case number and the specifics about the case.
26 Q. And did you write down the officer who gave
27 you that item or gave you an item.
28 A. Yes, sir, I did. 3193

Q. Who was that.
A. This is Detective Shepherd.
Q. What was it that you were given that went into that original brown bag.
A. On the property form, I would write down a description according to the investigator, what they seized, but here I wrote down “Magazines” on the package.
Q. Okay. Now, after you were given the magazine by Detective Shepherd, you placed it in that brown bag that’s inside of the Exhibit 580.
A. Yes, sir.
Q. And did you seal it in some fashion.
A. Yes.
Q. Would you describe how you sealed it.
A. It’s the department-issued evidence tape and I would staple it, seal it with the tape, and put my initials and the date on it.
Q. And after you did that, what did you do with the item.
A. I -- at the house, I stored it, and I attempted to keep them in numerical order, given my view.
Q. With regard to the brown bag that’s -- with regard to the brown bag inside the item marked as 580, is that what you did in this particular case.
A. Yes, sir.
Q. All right. Thank you. 3194

Now I've handed you an item that's marked I believe, as 576; is that correct. Should be like a tag down there.
A. The item is 303.
Q. And that's your item. This is the exhibit Item 576.
A. Oh, yes, sir.
Q. Do you see that.
A. Yes, I do.
Q. And with regard to the particular bag that's been marked as exhibit item 576, do you recognize that.
A. Yes, I do.
Q. And how do you recognize that.
A. By the -- my writing on the front of the package.
Q. And when -- did you place something inside that package.
A. Yes, sir.
Q. When and what did you place in there.
A. I don't know specifically. I'd have to look on the SH-451.
Q. You don't recall, but you placed something there.
A. Yes, sir.
Q. Does it indicate what officer it was that gave you the items you placed in the bag, 576.
A. Not on this package. I'd have to look on 3195

1 the SH-451.
2 Q. Do you have your SH-451 there.
3 A. Yes, sir.
4 Q. All right. Why don't you do that. And this
5 is a document that was prepared at or about the time
6 that these entries were made; is that correct.
7 A. That's correct.
8 It says by Detective Shepherd.
9 Q. All right. And that's Item 576; is that
10 correct.
11 A. Yes, sir.
12 Q. And did you seal that item in much the same
13 fashion you described to the ladies and gentlemen of
14 the jury on the other one.
15 A. Yes, sir.
16 Q. All right. You have an item in front of you
17 marked as -- whichever one that you have that's
18 closest. It doesn't make any difference.
19 A. Exhibit 575.
20 Q. 575, all right. Do you recognize 575.
21 A. Yes, sir.
22 Q. And when and where was the Item 575 the
23 first time you saw it.
24 A. It was in the -- in the master bedroom of
25 Mr. Jackson.
26 Q. Did somebody bring you that.
27 A. Yes, sir.
28 Q. Bring something to you in that bag. 3196

A. Yes, sir.
Q. And who was that.
A. It was Detective Shepherd.
Q. And when Detective Shepherd gave you the item, did you prepare the bag that's marked as Exhibit 575.
A. That is correct.
Q. Did you put the item in it and seal it.
A. Yes, sir.
Q. In much the same fashion that you've described.
A. Correct.
Q. All right. Let's turn our attention now to 569, if we could. That's in evidence. With regard to 569, do you recognize that item.
A. Yes, sir.
Q. And how do you recognize it.
A. The packaging.
Q. And do you recognize the handwriting.
A. Correct.
Q. Who's that. Whose handwriting is it.
A. It's mine.
Q. And with regard to that particular package, you placed some items inside that package.
A. Correct.
Q. And from whom did you get the items that you placed inside that package, 569. 3197

A. Detective Shepherd.
Q. And when you did that, did you seal it in much the same fashion that you described to the jury.
A. Correct.
Q. And with regard to after you have sealed the Item 569, 575 and 576, what did you do with those items.
A. I stored them in my view at the master bedroom area.
Q. All right. All right, with regard to the last item I've just given you, which is marked as 633 in evidence, do you recognize that.
A. Yes, sir.
Q. And how do you recognize that.
A. By the packaging.
Q. And whose handwriting is on that packaging.
A. That's my writing.
Q. When and where was the first time you saw that bag.
A. When it was given to me by the investigator in the master bedroom area.
Q. The bag itself, where was the first time that you saw that bag. Not the item that's in it, the bag.
A. The bag itself.
Q. Yes.
A. Empty. 3198

Q. Before you put the writing on it, yes.
A. You're asking where --
Q. I'm asking you a bad question. Let me try
and see if I can do it.
After the officer gave you an item --
A. Yes, sir.
Q. -- what did you do with it.
A. I put it in this bag and sealed it.
Q. Okay, thanks. That was a lot better.
A. Sorry.
Q. And does it indicate what officer gave you
the item.
A. Yes, it does.
Q. And who was that.
A. Detective Shepherd.
Q. Okay. And was it sealed and your initials
placed on it in much the same fashion as the others
I talked to you about.
A. Yes, sir.
Q. Okay. Let me hand you these items that are
in evidence as 588, 589.
All right. With regard to the Exhibit 588,
do you recognize that.
A. Yes, sir.
Q. And with regard to that particular exhibit,
when and where was the first time you saw it.
A. When it was brought to me by the
investigator in the master bedroom area. 3199

Q. Does that indicate to you who the officer was who brought it to you.
A. Yes, sir.
Q. Who was that.
A. Detective O'Grady.
Q. And did you fill out the bag and the information on the bag.
A. Yes, sir.
Q. And did you seal it.
A. Yes, I did.
Q. And place your initials on it.
A. Yes, sir.
Q. Now -- excuse me. Did you notice, with regard to your SH-451, whether there's a difference between the name on the bag and the name placed on your SH-451 form.
A. Yes, I did.
Q. What's the difference.
A. On the package it says Detective O'Grady, and on my SH-451, it has the name of another investigator on it.
Q. And what, to your knowledge is the correct one.
A. It's Detective O'Grady.
Q. You placed that on there when he gave you the item.
A. That's correct.
Q. All right. You have now 589 in front of 3200

you.
A. Yes, sir.
Q. And with regard to the Exhibit 589, who gave you that item.
A. D.A. Investigator Ellis.
Q. And did you place the information on that particular exhibit.
A. Yes, sir.
Q. Did you place inside of that exhibit the item that was given to you by Detective Ellis.
A. Correct.
Q. Or Investigator Ellis.
A. Correct.
Q. And did you then seal it. Is that correct.
A. That's correct.
Q. And made the notations on the bag.
A. Yes, sir.
Q. All right. Let me grab those. Okay. The top item there, I believe, is Item 710, if I'm not mistaken; is that correct.
A. 712.
Q. What is it.
A. This one's 712.
Q. 712, all right. 712. I guess I was mistaken. With regard to that particular item, were you given something to put inside that bag.
A. Yes, sir.
Q. Do you recognize the bag. 3201

A. Yes, I do.
Q. And how do you recognize it.
A. By the bag itself, my writing, and my signature on the bag.
Q. And in that particular item, does it indicate to you who the officer was that gave you the item.
A. Yes, it does.
Q. Who is that.
A. Detective Wolff.
Q. And did you prepare the information, seal the particular exhibit and put your initials on it like you described in the other ones.
A. Correct.
Q. All right. Would you put that aside for just a moment.
Sir, do you have an exhibit up there, let's take the top one, and you just told me what it is and --
A. Exhibit 562.
Q. All right. 562. Do you recognize that.
A. Yes, sir.
Q. And with regard to the particular exhibit, it's a brown paper bag, did you put the notations on that bag.
A. Yes, sir, I did.
Q. And was -- did an officer give you something to place in that bag. 3202

A. That is correct.
Q. What officer was that.
A. Detective Alvarez.
Q. And did you do that. Did you place the item in the bag.
A. Correct.
Q. And fill out the information.
A. Yes, sir.
Q. And did you then seal it and package it.
A. Correct.
Q. All right. The next one is item -- is that 288.
A. Correct.
Q. And with regard to 288, do you recognize that.
A. I recognize the writing on the bag, yes, sir.
Q. Is that yours.
A. Yes.
Q. All right. And were you given something to put into that particular bag.
A. Correct.
Q. It’s a large bag, right.
A. Yes, sir.
Q. And who’s the officer that gave you the item to put in there.
A. Detective Alvarez.
Q. And did you also place the item in that bag, 3203

seal it, and put your initials on the bag.
A. Yes, sir.
Q. And at that point, it was placed down with the other items that were later given to somebody else, correct.
A. Correct.
Q. You should have one other bag up there. Perhaps it's underneath. No. 565.
A. I only see three.
Q. Okay. We'll have to search around for that.
SERGEANT ROBEL: Tom.
MR. SNEDDON: Oh. Never mind. I found it.
(Off-the-record discussion held at counsel table.)
MR. SNEDDON: All right. 470, the briefcase. Thanks, Lorna.
Q. I've handed you a briefcase that bears the initials -- or the numbers 4-7-0 on it.
A. Yes, sir.
Q. It's in evidence in this particular case. Do you recognize that briefcase.
A. I don't recognize the briefcase, no, sir. I don't remember it.
THE BAILIFF: He has to speak up.
Q. BY MR. SNEDDON: I can't hear you.
A. I don't remember the briefcase.
Q. With regard to -- would you check your SH-451, please. 3204

A. Yes, sir.
Q. And look under Item 317.
A. “Briefcase.”
Q. Was that given to you.
A. Yes, sir.
Q. Do you see some -- open the bag if you have to, Detective.
A. Open the plastic.
Q. Yeah, if you have to, sure. It’s a plastic bag. You’re opening it. And the briefcase itself that’s marked as 470 has some evidence seals on it, correct.
A. Correct.
Q. Do you recognize any of those seals.
A. I recognize the seals, but not the writing on them.
Q. Okay. Do you know what you did with the item that’s 470 when it was given to you that day.
A. 470. May I explain one --
Q. Sure. That’s why you’re up there.
A. While I was seizing, there was times when there was some investigators waiting in line, and in my presence, under my supervision, the investigators would help me seize it, and then I would take it from them and place it on the line of where the items were.
Q. All right. And is this one of those items that you followed that procedure on. 3205

A. It looks like this isn't my writing.
Q. And does that indicate what officer -- does your SH-451 indicate what officer brought you that.
A. I can't read the initials.
Q. On your SH-451.
A. Sorry. Detective Zelis.
Q. At the time that you were involved in the process with regard to 470, did you look inside the item at all.
A. No, sir.
Q. Okay. If we give you any more, we're going to cover you up.
All right. I've just given you the item that's been marked as 561; is that correct.
A. Correct.
Q. Do you recognize the brown bag.
A. Yes, I do.
Q. How do you recognize it.
A. By the writing and my initials on the seal.
Q. All right. Who is the officer who gave you the items -- who gave you the items to put inside that bag.
A. Detective Zelis.
Q. Did you note that on the bag.
A. Yes, sir, I did.
Q. Did you place the item inside the bag.
A. Yes, sir.
Q. And seal it and initial it. 3206

A. Yes, sir.
Q. And set it aside for later providing to somebody else to take and book, correct.
A. That's correct.
MR. SNEDDON: Your Honor, I have here an item that I'd like marked as 552 for identification purposes. I'll show it to counsel.
Q. I'll show you 552. Do you recognize that.
A. Yes, I do.
Q. Where was that the first time you saw it.
A. It was in the master bedroom area.
Q. And did you -- were you given some items to place in that particular bag.
A. Yes, I was.
Q. By who.
A. Detective Sergeant Robel.
Q. And now with regard to the time that the items were placed in that bag, do you recall how many items were placed in there and what they were.
A. I don't recall what specific items were placed inside.
Q. Would you check your SH-451 form, please, and see if it refreshes your recollection.
A. "Magazines."
Q. And were there multiple magazines placed in there. I mean, do you have an "S" by it or did you have a "magazine".
A. I had -- on the SH-451, I have an "S" by it. 3207

Q. You didn’t put the number.
A. No, sir.
Q. Okay. All right. When you took the items that you were given by Sergeant Robel, you placed them into that particular bag; is that correct.
A. Correct.
Q. And then did you then put the notations on it, seal it, and put your initials on it.
A. Correct.
Q. All right. Now, that bag, at this particular point in time, only contains one item in it, correct. Open the bag and look.
A. Yes, sir.
Q. And that’s a book.
A. Correct.
Q. Correct, okay.
All right. Detective Padilla, were you give an item marked as 3 -- that you marked as 364 by Detective Robel.
A. May I look on the --
Q. Yes, please.
A. 364.
Q. If you have no present recollection, you need to refresh your recollection, go ahead.
A. Yes, sir.
Q. And with regard to that particular item, did you prepare a brown bag, with the notations on it that you’ve described to the jury as to the other 3208

items, in the same manner.
A. Yes, sir.
Q. And did you seal it and put your initials on it.
A. I need to see the bag itself.
Q. I was afraid you were going to ask me that. I needed a recess to do these things. I'm just jumping all over.
Madam Clerk, I believe it's 553.
THE CLERK: I don't have that.
MR. SNEDDON: You don't have that.
THE CLERK: No.
MR. SNEDDON: All right. Judge, at this time I'll re-call this officer when I get a chance to go through all of this stuff so we're not wasting a lot of time in front of the jury.
THE COURT: All right. Thank you.
Cross-examine.
MR. MESEREAU: Yes, please, Your Honor.

CROSS-EXAMINATION
BY MR. MESEREAU:
Q. Good morning.
A. Good morning.
Q. You were designated the scribe in the main house, right.
A. Yes, sir.
Q. And the main house is the house where you 3209

have Mr. Jackson's bedroom, right.
A. Correct.
Q. And Mr. Jackson's bedroom, as you recall, is
two levels, right.
A. I recall, yes.
Q. You got a downstairs, and you got a stairway
that goes to an upstairs, right.
A. Yes, sir.
Q. And did you perform your activities as a
scribe in Mr. Jackson's room.
A. It was downstairs, and it looked like a
lobby. There was a large T.V. in there and some
chairs. There was not a bed in the room where I set
up.
Q. But in the room where you say you set up,
was that part of Mr. Jackson's two-level bedroom.
A. Yes, sir.
Q. Was it downstairs.
A. Correct.
Q. And when you say you "set up," what did you
do.
A. I set up a table where I processed all the
items seized at the house.
Q. Did you bring the table with you.
A. Yes, sir.
Q. Was it something you actually brought to
Neverland as part of the search.
A. It was provided to me by personnel at the 3210

ranch.
Q. Okay. When you say “personnel,” do you mean
Mr. Jackson’s personnel.
A. No, sir. No sir. Sheriff’s staff.
Q. Was the table you used something sheriffs
brought with them.
A. Yes, that’s correct.
Q. Okay. So you brought a table into Mr.
Jackson’s lower part of his bedroom, and that’s
where you set up, right.
A. Yes, sir.
Q. And did you have a chair there, too.
A. I had a chair.
Q. And did you sort of sit there and wait for
people to bring items to you to log in.
A. Yes, sir.
Q. Okay. Did you participate in any search
activities yourself.
A. No, I did not.
Q. Were you a scribe the whole day.
A. Yes, sir.
Q. All right. Was it all of the main house.
A. At the main house.
Q. Okay. Now, you signed in and out at various
times that day, correct.
A. I was relieved by Lieutenant Klapakis.
Q. Okay. So Lieutenant Klapakis became the
scribe at times you were not there. 3211

A. He didn't seize any of the items. I just broke for a lunch break, or left out there, or for a rest room break.
Q. I'm not going to belabor it, but there is a sign-in and -out sheet that you signed in and out on, right.
A. I don't recall one.
Q. Okay. Somebody typed up a sheet with various "in" and "out" times attributed to various people that were there that day, right.
A. I don't recall.
Q. Have you seen that sheet.
A. No, sir, I haven't.
Q. If I show it to you, would it refresh your recollection about signing in and out.
A. It may.
MR. MESEREAU: May I approach, Your Honor.
THE COURT: Yes.
THE WITNESS: I don't recall ever seeing that.
Q. BY MR. MESEREAU: How about the following.
A. I don't recall. I don't remember.
Q. (Indicating).
A. I don't recall ever seeing that.
Q. Okay. I showed you what appear to be logs of people on the search team entering in and out, and you say you've never seen those sheets before.
A. I don't recall ever seeing them. 3212

Q. Do you recall signing in and out.
A. That was in two thousand -- I don't recall.
I don't recall.
Q. Do you recall if anyone else replaced you as
a scribe in Mr. Jackson's bedroom.
A. No one replaced me. I don't recall that.
Q. So you were the scribe that day, right.
A. For the main house area, yes, sir.
Q. Okay. How many people did you see searching
in Mr. Jackson's bedroom while you were a scribe.
A. I couldn't physically see the investigators
up in the bedroom, since it was upstairs and I was
downstairs, so I couldn't answer that question.
Q. You couldn't physically see any of them.
A. No, sir. I was downstairs and they were
upstairs. "The bedroom," are you just meaning
specifically as to where his bed was.
Q. Maybe I'm not being clear. His bedroom is
two levels, right.
A. Yes, sir.
Q. You walk into a door. You enter into the
lower level, right.
A. Correct.
Q. And you set up a table in the lower level,
correct.
A. Yes, sir.
Q. And you must have seen people entering or
leaving the bedroom, because you were on that lower 3213

1 level where the entranceway is, correct.
2 A. Correct. Yes, sir.
3 Q. Did you see activity in and out that day.
4 A. Yes, sir.
5 Q. Did you see activity in and out the whole
6 day that you were there.
7 A. Yes, sir.
8 Q. And approximately how many people did you
9 see enter or leave that day.
10 A. I would guess maybe 15 to 20.
11 Q. So 15 or 20 people were searching through
12 Mr. Jackson's bedroom area.
13 A. Yes, sir.
14 Q. As far as you know.
15 A. As far as I know, yes, sir.
16 Q. Okay. Now, would it be correct to say that
17 16 detectives, three sergeants and five D.A.
18 investigators entered into Mr. Jackson's main house
19 that day.
20 A. Yes, that would be correct.
21 Q. Okay. A total of 24 people were searching
22 through Mr. Jackson's home that day, right.
23 A. I don't know about 24.
24 Q. Would it refresh your recollection if I just
25 show you a police report which identifies who
26 entered the main house that day.
27 A. Yes, sir.
28 MR. MESEREAU: May I approach, Your Honor. 3214

THE COURT: Yes.
THE WITNESS: Yes, sir. I hadn't counted them, but that's the list I prepared.
Q. BY MR. MESEREAU: Okay. Would you like to count them.
A. If you'd like me to.
Q. Okay. Please.
Have you had a chance to look at that document.
A. Yes, sir.
Q. And have you had a chance to count who was in the main house that day.
A. Yes, sir.
Q. And would it be accurate to say about 16 detectives, three sergeants and five D.A. investigators.
A. Assigned to the main house, yes, sir.
Q. Okay. And do you think about 20 went into his bedroom.
A. I don't know what specific jobs each one of them did. That's what I was -- do you want me to continue or --
Q. No, go ahead.
A. Oh, I don't know which specific officers. I thought you asked how many were assigned in the main house area.
Q. How many did you see go in and out of his bedroom. 3215

A. Oh, I don’t know. I know they were really strict on how many people were assigned to that specific area of the bedroom.
Q. Well, just as far as you remember, how many walked in and out. Because you’re the scribe. You’re sitting at a table, the lower level, which is where you enter, right.
A. Yes, sir.
Q. And it’s also where you leave, right.
A. Yes, sir.
Q. So how many people did you see trafficking in and out.
A. To be honest with you, sir, I don’t remember counting, even. I was told what to do, and I don’t recall the specific --
Q. Could it have been more than ten.
A. I don’t recall.
Q. No number at all.
A. I didn’t pay attention. No, sir.
Q. You just identified various items of evidence that the prosecutor showed you, correct.
A. Yes, sir.
Q. And of those items, who did you get them from. You mentioned Shepherd, right.
A. Yes.
Q. Did you mention Zelis.
A. Yes.
Q. Did you mention anybody else. 3216

A. Yes, I did.
Q. Who else.
A. D.A. Investigator Ellis.
Q. Okay.
A. And Sergeant -- Detective Sergeant Robel.
Q. Okay.
A. And I don’t believe I mentioned any other investigators.
Q. Were you sitting at the table when the search went on.
A. Yes, sir.
Q. And your job the whole day was to have people bring items to you, and you would package them, right.
A. Yes, sir.
Q. And you would put them first in a paper envelope, right.
A. In the appropriate package, depending on the size of the item.
Q. Do you recall someone named Wolff.
A. Oh, yes, sir. I do.
Q. Was a Detective Wolff involved.
A. Yes.
Q. You saw Detective Wolff in that bedroom area.
A. I don’t recall seeing that, but I recall the item.
Q. Now, was it your understanding as a scribe 3217

that you were supposed to package items to protect them from contamination.
A. I was assigned to package them, yes, sir.
Q. Were you assigned to package them to protect them from contamination.
A. Yes, sir.
Q. And what contamination were you trying to protect them from.
A. Any nonauthorized personnel.
Q. Did you have any role in deciding whether or not anything would be fingerprinted.
A. No, I wasn't, specifically. It was just common sense. If an item appeared and if they told me, "Hold for prints," I would be sure to use care in what packaging to use.
Q. And typically who would tell you to hold for prints.
A. The investigator.
Q. Do you recall being told to hold anything for prints.
A. Yes, I recall some of the investigators were real specific the way they held it and when they delivered it to me.
Q. And how many items do you think you were told to hold for prints.
A. I remember several of the items we tried not to touch as much as possible, but I don't recall how many or approximately how many specifically were to 3218

be held for prints.
Q. Now, the items the prosecutor just showed you, were any of them asked to be held for prints; do you know.
A. I don't recall specifically. I don't recall.
Q. Would it refresh your recollection just to take a look.
A. No, sir.
Q. Why not.
A. Because I didn't note it on there. Just every item that I packaged I tried to use the least amount of handling of the package.
Q. Okay. Let me go back a bit. I think you just said at times you were told to hold certain specific items for prints, true.
A. Yes, sir.
Q. And other times you were not told to hold specific items for prints, right.
A. Yes, sir.
Q. If you were asked to hold something for prints by an investigator, what did you do.
A. I would use the least amount of -- I would not touch it as much as possible.
Q. Would you note anywhere on the packaging "Hold for prints".
A. No, sir.
Q. So "Hold for prints" meant, to you, don't 3219

touch it as much as you might touch it otherwise.
A. When they would tell me, yes, sir.
Q. If they didn't tell you, "Hold for prints,"
what would you do with it.
A. Personally, I would not touch it as much as
possible.
Q. If they did tell you, "Hold for prints,"
what would you do differently.
A. Extra care.
Q. What does "extra care" mean.
A. The least amount possible, without dropping
it or contaminating it.
Q. But no record's ever made of "Hold for
prints".
A. No, sir.
Q. "Hold for prints" is just a verbal
suggestion that you touch it as little as possible,
correct.
A. Yes, sir. Yes.
Q. And if they don't tell it to you, you can
still touch it a little more. Is that what you're
saying.
A. Personally, yes.
Q. Okay. And how would you touch it.
A. With rubber gloves, and package it in the
appropriate bag.
Q. If you're holding for prints, do you put it
in a paper bag. 3220

A. Depends on the item.
Q. And what do you mean.
A. There's plastic packaging, and there's
paper.
Q. But if you look at what you wrote on any of
the items you just identified, you won't know
whether or not they were held for prints, true.
A. No, sir.
Q. To your knowledge, as a scribe, are you ever
obligated to make a notation anywhere that something
is to be held for fingerprinting.
A. Personally, I would, but I was never told
to.
Q. You were never told to.
A. No, sir.
Q. Do you recall ever doing that as a scribe in
any other case.
A. Of caring for items and try to not touch
them as much as possible.
Q. No, as a scribe in any other case, do you
recall actually noting on a document "Hold for
prints".
A. Yes, sir, on my cases.
Q. But you didn't do it in this case, right.
A. No, sir.
Q. During the time you were in Mr. Jackson's
bedroom working as a scribe, how many times do you
think anyone asked you to hold an item for prints. 3221

A. I recall maybe a few times.
Q. And you don't know what those items were, right, as you sit here today.
A. No. Not specifically, no, sir.
Q. If you held something for prints, was it put in a separate location.
A. No, sir.
Q. Was it given to anyone special.
A. No, sir.
Q. So items that were held for prints and items that were not held for prints were given to the same person after you were through with them, right.
A. Yes, sir.
Q. And who was that person.
A. It was Sergeant Cintron who was in charge of the property room.
Q. When he got the items, you never saw them again.
A. No, sir.
Q. And you filled out no report or document of any kind that said hold an item for prints, right.
A. Right.
Q. And what about the possibility of DNA testing on any of these items. Did you have any procedure that you used if something was to be tested for DNA.
A. I was not specifically instructed on labeling any of the items for DNA evidence. 3222

Q. Were you ever verbally instructed to give any special treatment for anything that might be used for DNA testing.
A. No, sir. I don't recall specifically, specifically for DNA.
Q. Do you recall being given any instructions of any kind for handling any item that was going to be forensically testing in any particular way.
A. Just some of the items when they brought them; you know, try not to touch it as much as possible. Just those items, if you're referring to that.
Q. Okay. But there's no record of what they are, right.
A. No, sir.
MR. MESEREAU: No further questions, Your Honor.
THE COURT: All right. Anything further.
MR. SNEDDON: No. No questions.
THE COURT: All right. Thank you. You may step down.
THE WITNESS: Thank you.
MR. SNEDDON: Detective Bonner.
THE COURT: Remain standing. Face the clerk. Raise your right hand, please.

CRAIG BONNER
Having been sworn, testified as follows: 3223

1
2 THE WITNESS: Yes.
3 THE CLERK: Please be seated. State and
4 spell your name for the record.
5 THE WITNESS: Craig Bonner, B-o-n-n-e-r.
6 THE CLERK: Thank you.
7
8 DIRECT EXAMINATION
9 BY MR. SNEDDON:
10 Q. Morning, Detective.
11 A. Good morning.
12 Q. You're employed by the sheriff's department.
13 A. Yes, I am.
14 Q. And how long have you been employed by the
15 sheriff's department.
16 A. Over 11 years.
17 Q. And you're currently assigned to the
18 detective bureau, correct.
19 A. That is correct.
20 Q. And how long have you been a detective.
21 A. Five years.
22 Q. And you were assigned to work on the
23 investigation concerning the child molest
24 allegations against the defendant, Michael Jackson,
25 correct.
26 A. That is correct.
27 Q. And you've been part of that investigative
28 team, correct. 3224

A. Correct.
Q. Now, with regard to that particular investigation, you participated in the execution of the search warrant on November the 18th of 2003, correct.
A. I did.
Q. And in your capacity, you actually did some searching, correct.
A. Yes, I did.
Q. Now, after the warrant was executed and the evidence was brought back to the Santa Barbara Sheriff's Department, were you assigned some responsibilities in connection with the further processing of items that were seized from the Neverland Valley Ranch on November the 18th, 2003.
A. Yes, I was.
Q. And could you tell the jury what your responsibilities were.
A. Basically my responsibility was to go back, open up the items that were seized, and document the contents and determine if those contents were of specific evidentiary value in our investigation.
Q. Now, specifically I want to direct your attention to an item that's been referred to as Item 321 in your reports. Do you recall what 321 was.
A. Yes, I do.
Q. And what was that.
A. Some magazines of adult material. 3225

Q. And were these items that you opened, the bag, were these items that were taken from Neverland Valley Ranch and you opened the bag and looked at.
A. That is correct.
Q. Do you recall when it was you looked at the Item 321, your Item 321.
And you're referring to a piece of paper.
A. I am. I'm going back to my reports and a chart that I had prepared to assist in that.
Q. All right. Why don't you let me see that so I can show it to counsel.
(Off-the-record discussion held at counsel table.)
THE WITNESS: Thank you.
Q. BY MR. SNEDDON: All right. Let's talk about Item 321, okay. And when was it that you actually opened the bag and the items contained in 321.
A. That was on 11-26, 2003.
Q. Where did you do that.
A. At the Santa Barbara Sheriffs main station in Goleta.
Q. And when you did that, what did you do with regard to those items.
A. I opened it, photodocumented the contents, and then wrote a report which documented what I found the contents to be.
Q. When you say you photodocumented the 3226

contents, would you tell the jury what that means.
A. Basically what I did is, I took the items out of the bag that they were sealed in, and I spread them out, and took photographs of those items so that I could go back and later ascertain, if something was lost, what it actually came from.
MR. ZONEN: Excuse me.
SERGEANT ROBEL: Bless you.
Q. BY MR. SNEDDON: And after you completed that process, did you put those items back in the bag.
A. I did.
Q. And did you seal it.
A. I did.
Q. And did you initial it.
A. I initialed the bag, yes.
Q. Okay. I'm going to show you some items.
MR. ZONEN: Excuse me.
MR. SNEDDON: Mr. Mesereau.
(Off-the-record discussion held at counsel table.)
Q. BY MR. SNEDDON: All right. Detective Bonner, in order to try to expedite this, I've asked you to look at the exhibits in that box that have been marked as 554 up to 560 for identification purposes prior to bringing them to court, correct.
A. That is correct.
Q. And would you, just quickly, just make sure 3227

that those are the numbers in that box with those particular binders. That it's 554 through 560.
A. These are the items that I reviewed.
MR. SNEDDON: And, Your Honor, for the record, they have been marked with the official seal of 554 through 560 for identification purposes.
THE COURT: Thank you.
I'll show that they've been identified.
Q. BY MR. SNEDDON: All right. Now, I also -- by the way, do you recognize the magazines that are -- did you, when I asked you to look at them in detail, recognize the magazines inside of the binders that are marked as 554 through 560.
A. I did.
Q. And where were those items the first time you saw them.
A. They were contained within the packaging for Item 321.
Q. And on the occasion in which you previously identified to the jury on --
A. On 11-26.
Q. Yes.
A. Yes.
Q. Okay. Now, I've handed you a series of photographs which are also marked, Your Honor, with the evidence tags for identification purposes of 682 through 688, and I've shown them to counsel. Do you recognize those photographs. Would 3228

you take a look at them real quickly. Or take as long as you need, I guess.
A. I recognize these items as being pictures of the cover sheets of these magazines that are in this box.
Q. 554 through 560.
A. Correct.
Q. Did I ask you to compare the photographs, 682 through 688, with the front covers of each of those items, 564 through 560.
A. Yes, you did.
Q. And did you do it.
A. Yes.
Q. And are those photographs accurate depictions of what they purport to represent, which is the front covers of those magazines.
A. They are.
MR. SNEDDON: Your Honor, I'd move that the photos be admitted into evidence at this time.
MR. MESEREAU: No objection.
THE COURT: That being.
MR. SNEDDON: That would be 682 through 688, Your Honor.
THE COURT: Admitted.
MR. SNEDDON: Your Honor, may we have the Elmo, please.
THE COURT: "Input 4".
THE BAILIFF: Yes. 3229

Q. BY MR. SNEDDON: Okay. We're going to put the Exhibit 682, which is in evidence, up on the board for a second. You can do that now.
Now, with regard to the binders that are in front of you that we have previously had marked, for identification purposes, 554 through 560, can you mate up the Exhibit 682 to which exhibit that would be.
A. Can you raise the exhibit slightly.
Q. I think the number's over in the far --
A. That corresponds with the magazine 321-A.
Q. All right. Now, if we could have the next one placed up there.
And with regard to the Exhibit 683, which is in evidence, which binder does that correspond to, exhibit number.
A. That is 321-B.
Q. Okay. What's -- there's an exhibit number on the back of it. Just turn it over, if you would.
A. Exhibit No. 555.
Q. Okay. Thank you.
With regard to the next photograph, please, that's in evidence, and that is 684, and what binder would that -- what exhibit number.
A. That corresponds with Evidence Item No. 321-C, and Exhibit No. 556.
Q. That's 556 for identification. All right.
And with regard to the next photograph. And 3230

that is Exhibit No. 685 that's in evidence. Do you recognize that, and would you marry that up with the particular exhibit number.
A. Corresponds to Exhibit No. 557.
Q. All right. The next one, please. That is No. 686.
A. That corresponds to Item -- or Exhibit No. 558.
Q. 558. All right.
And that is No. 687.
A. That corresponds to Exhibit No. 559.
Q. All right. And then there should be one more, which is Photograph No. 688 in evidence.
A. Corresponds to Exhibit No. 560.
Q. All right. Thank you, Officer.
Now, I'd like to ask you a couple of questions about an exhibit that is in your department's Item No. 309, okay.
A. Okay.
Q. Now, were you involved in looking into the Item 309.
A. I was.
Q. And do you recall when it was that you looked into those items.
A. On December 2nd, 2003.
Q. And what did you do with regard to the Item 309.
A. At the time I opened it up, I inventoried 3231

the contents, and I believe I removed the pornographic videos out and gave those a sub item.
Q. The adult materials.
MR. MESEREAU: Objection.
THE WITNESS: I'm sorry.
THE COURT: He corrected it. Go ahead.
Q. BY MR. SNEDDON: The adult materials.
A. The adult materials.
Q. Okay. And do you recall what it was that you removed out of the Exhibit 309 when you saw it.
A. There were two "Barely Legal" DVDs.
Q. And did you repackage those.
A. I did.
Q. And do you recall if you gave them a number when you repackaged them.
A. I did.
Q. What number did you give them.
A. I believe I gave it 309-A.
Q. Now, at a subsequent time, did you also go back into the Exhibit 309 and repackage any other items there.
A. I don't know that I did. However, I am aware that that happened.
Q. Okay. So you don't think you were involved in that process.
A. I don't recall.
Q. Okay. Now, you have an item that is called 363 for your nomenclature. 3232

A. Correct.
Q. And were you involved in reviewing that particular item.
A. Yes, I was.
Q. And at the time that you reviewed it, do you recall what was in there.
A. Yes.
Q. What was in there.
A. There were magazines of adult nature.
Q. And do you recall what day it was that you looked at the item -- your Item 363.
A. That was also done on 11-26, 2003.
Q. And you've described to the jury what you did as to Item 321 that you photodocumented. Did you follow that same process with regard to your Item 363.
A. The same procedure, yes.
Q. Okay. And then after you were completed, what did you do with the items that were inside your package 363.
A. Put them back into the package, sealed the package, signed it, and returned it to evidence.
MR. SNEDDON: Tom. Do you want to take a look.
Your Honor, I see we're a couple minutes from a break. We might save some time if we do this during the break. It's up to you. Otherwise, I'll just keep going. 3233

Your Honor, I'd indicate for the record that the items Mr. Mesereau's now looking at are premarked as Items 530 through 551 for identification purposes.
(Off-the-record discussion held at counsel table.)
THE COURT: All right. We'll take our morning break.
(Recess taken.)
MR. SNEDDON: Thank you, Your Honor. I think we'll be able to proceed more expeditiously now.
THE COURT: Thank you.
Q. BY MR. SNEDDON: All right. Detective Bonner, you have a box in front of you.
A. Yes, I do.
Q. And you told the ladies and gentlemen of the jury that you had at one point in time removed the articles from an item that you had marked as a sheriff's exhibit 363, correct.
A. Evidence item number, yes.
Q. Evidence item number.
A. Yes.
Q. And you reviewed those materials, correct.
A. Yes, I did.
Q. Now, I actually -- I misspoke myself. There is a box in front of you, and there's a box at your feet, correct. 3234

A. There's also a box at my feet.
Q. And have I asked you, prior to coming into court here today, to review the items contained in those two boxes.
A. Yes, I have.
Q. And do you recognize those items.
A. I do.
Q. With regard to those particular items, when and where were they the first time you saw them.
A. The first time I saw them was on 11-26 at the Santa Barbara Sheriff's main station in Goleta.
Q. I may have asked you this, but if I didn't, I want to make sure. Did you photodocument those items that were in the original bag, 363.
A. Yes, I did.
Q. Now, when you put them back into the bag, were they in the condition they're in now, in the binder, or did you just place them back in the bag.
A. They were not in the condition that they are now in. They were still together in magazine form, and I just put them back in the same condition as I pulled them out of that bag.
Q. And with regard to the handling of these magazines, were you using gloves.
A. Yes, I was.
Q. Were you using gloves with regard to the handling of all the magazines that you testified about here this morning. 3235

A. Yes.
MR. SNEDDON: Now, Your Honor, with regard to the two boxes, I'd like to have them marked, and they are marked, premarked, with the help of the Court, as 530 through 551. Okay.
THE COURT: You're saying the materials in the boxes, not the boxes. You're marking --
MR. SNEDDON: Right. Just the materials in the box, Your Honor.
THE COURT: All right.
MR. SNEDDON: And then I've shown counsel during the break a series of photographs that have been marked as 689 through 709 for identification purposes.
Q. Now, with regard to the photographs that I just handed you, 689 through 709 - okay. - did I also ask you to review those photographs before you came into court here this morning.
A. Yes, you did.
Q. And did I ask you to compare those photographs with the series of exhibits that have been marked as 530 through 551.
A. That being 3 -- Item 363.
Q. Yes.
A. Yes.
Q. And your Item 363, but our items in evidence that have been marked for identification purposes.
A. Yes. 3236

Q. Okay. We'll get to the numbers in just a second. And did you -- with regard to those photographs, you were asked to compare those with the front pages of each of those -- of the items in the box, correct.
A. Correct.
Q. All right. Now, with regard to the -- to the photographs themselves, do they accurately depict what they purport to represent, which is the front covers of each of those books -- magazines and items.
A. Yes, they do.
MR. SNEDDON: All right. I move that the Items No. 689 through 709 be admitted into evidence, Your Honor.
MR. MESEREAU: I'm going to object, Your Honor. Chain.
THE COURT: All right. They're admitted.
Q. BY MR. SNEDDON: All right. Detective Bonner, what I'm going to ask you to do now is sort of the same thing we did with the other items, is we're going to put on the Elmo the photographic number that is in evidence and then ask you to identify the specific exhibit number of the binder that corresponds to the front cover of that photograph. Okay.
A. Okay.
Q. Now, with regard to -- if we could put the 3237

first one up, which I believe is 689. It's in evidence.
MR. AUCHINCLOSS: If we could go to "Input 4," Your Honor, please. Thank you.
Q. BY MR. SNEDDON: All right. With regard to the photograph, 689, that's in evidence, can you find the exhibit number in this case that corresponds with that.
A. The corresponding exhibit number is 531.
Q. 531. Okay.
And is that photograph an accurate depiction, or it does depict the front cover of that Exhibit 531, correct.
A. That's correct.
Q. All right. Let's go to the next one, 690 in evidence.
With regard to 690, do you have an exhibit number that corresponds to that.
A. I do. It's 532.
Q. 532. And that's the cover of that Exhibit 532, correct.
A. It is.
Q. All right. Let's go to the next one, 691.
With regard to 691, what exhibit number does that correspond to.
A. Corresponds to Exhibit No. 533.
Q. Okay. Let's go to the next one, photograph 692. What exhibit number does that correspond to. 3238

A. Corresponds to Item No. -- or Exhibit No.
534.
Q. So -- okay. If we could have 693, please,
in evidence.
And with regard to the photograph, 693, what
exhibit number does that correspond to.
A. I'm sorry, these are slightly out of order.
Q. I'll tell you what, let's take that one down
and come back to it, by process of elimination, if
we can. Let's just skip that one and go to
Photograph No. 694.
A. That corresponds to Exhibit No. 536.
Q. All right. And Photograph 695 in evidence.
A. Corresponds with -- there's no exhibit.
Q. Must have come off inside there.
All right. Madam Clerk, perhaps you can
give us another 537, and I'll retrieve the other one
at the recess and replace it, if you wouldn't mind.
THE WITNESS: There's a sticker down here.
Q. BY MR. SNEDDON: There is a sticker. Okay.
A. 537.
Q. 537. All right. Thank you. Why don't you
just put that back on there.
A. That is not the cover page to this, though.
It's a page from within the magazine. The cover
page is missing on this magazine.
Q. So that's from within the magazine itself.
A. Correct. 3239

1 Q. Okay. But that would be 537.
2 A. Correct.
3 Q. Okay. And 696 is the photograph.
4 A. Corresponds to Exhibit No. 538.
5 Q. 697 in evidence.
6 A. Corresponds to Exhibit No. 539.
7 Q. 698.
8 A. Corresponds to Exhibit No. 540.
9 Q. 699.
10 A. Corresponds to Exhibit No. 541.
11 Q. 700.
12 A. Corresponds to Exhibit No. 542.
13 Q. 701.
14 A. Corresponds to Exhibit No. 543.
15 Q. 702 in evidence.
16 A. Corresponds to Exhibit No. 544.
17 Q. 703.
18 A. Corresponds to Exhibit No. 545.
19 Q. 704.
20 A. Corresponds to Exhibit No. 546.
21 Q. 705.
22 A. Corresponds to Exhibit No. 547.
23 Q. 706.
24 A. Corresponds to Exhibit No. 548.
25 Q. 707.
26 A. Corresponds to Exhibit No. 549.
27 Q. 708.
28 A. Corresponds to Exhibit No. 550. 3240

Q. And lastly, 709.
A. Corresponds with Exhibit No. 551.
Q. All right. Thank you.
We can have the lights.
Did you run across your number 653-F in there when you were going through that.
A. I did not.
Q. All right. We'll deal with it later.
Okay. Why don't you take that box and put it on the floor behind you there, because we're done with it for right now.
Showing you Exhibit 565, which is in evidence, do you recognize that.
A. Yes, I do.
Q. Now, with regard to the contents of 565, where was it the first time you saw it.
A. It was within Item 309.
Q. And you've indicated to the jury that you took some items out and separately packaged them; is that correct.
A. That's correct.
Q. And is that your handwriting on the front of that.
A. Yes, it is.
Q. And did you place those items into that bag.
A. I did.
Q. And then seal them.
A. Yes. 3241

Q. And put them back into evidence.
A. Yes.
Q. All right.
Okay. Your Honor, at the break, we had an opportunity for counsel to go through another set of exhibits. And I'm not sure whether they've gone through the photographs, and I'll hand it to counsel right now while I'm giving the exhibits to the officer, and then I'll identify both of them for the record, Your Honor.
THE COURT: All right.
Q. BY MR. SNEDDON: Why don't you put this on the side, so we can see you.
I'm handing you two exhibits, one is 470, a black suitcase. Briefcase, actually. Do you see that.
A. I do.
Q. And do you recognize that item.
A. Yes, I do.
Q. And where was that briefcase the first time you saw it.
A. At the Santa Barbara Sheriff's Department main station.
Q. And do you recall -- will you tell the ladies and gentlemen of the jury what you did in connection with that particular briefcase, 470.
A. I handled this briefcase in the same manner as the previous items. I checked it out of 3242

evidence, opened it up, and inventoried the contents of it, and then sealed it back up and submitted it back into evidence.
Q. And -- now, there's a photograph in front of you, which I believe is People's No. 86 in evidence. Do you recognize that photograph.
A. Yes, I do.
Q. What does that photograph depict.
A. This briefcase and some of the contents within the briefcase.
Q. All right. With regard to the particular briefcase, I've handed you a big box full of exhibits up there. When you examined the contents of the briefcase, did you put the items that you examined back into the briefcase.
A. Yes, I did.
Q. I'm sorry, I didn't hear you.
A. Yes, I did.
Q. And were you using gloves again.
A. Yes, I was.
Q. All right. And did I ask you in conjunction with your testimony here today - it's almost afternoon now - to look at the box that I handed you with all of the proposed exhibits in it.
A. Yes, you did.
Q. And that is your Item No. 317, correct.
A. Correct.
MR. SNEDDON: Your Honor, for the record, 3243

we've had marked for identification purposes Items 471 through 529.
And in that connection, I've shown counsel a series of photographs that run from -- the first one is 295, and then after that there's 632, and then 634 through 680. I'm sorry, 681. Let me just double-check that. Yes, 681, I'm sorry.
Q. First of all, I'd like you to please examine the photographs that I've handed you. That's 295, 632, and then 634 through 681.
A. I've finished.
Q. All right. Now, with regard to the photographs that I've just referred you to, do you recognize those photographs.
A. Yes, I do.
Q. And did you compare those photographs with the items that are contained inside of the box.
A. Yes, I did.
Q. Okay. Now, one moment. Your Honor, if I haven't done it, I want to have just now -- the items inside the box I believe I've already indicated would be marked as 471 through 529. Did I do that already. Did I do that already. I just wanted to make sure so we didn't have any problems.
Thank you, Madam Clerk.
All right. So I asked you to examine the photographs and to match them up with the items, the 3244

Exhibit Nos. 471 through 529, correct.
A. That's correct.
Q. Now, with regard to the items that are in that box that I've referred to, 471 through 529, generically, just could you tell the ladies and gentlemen of the jury what you observed about those items in terms of what they were when you first saw them on the 26th of November.
A. They are magazines and loose pages of adult or explicit material.
Q. All right. So with regard to the photographs that you were handed, some of those simply are photographs of the -- if it's a one-page explicit material thing, a photograph of that; is that correct.
A. Correct.
Q. And in other cases, there's -- they're the cover sheet of the entire magazine.
A. Correct.
Q. And do those photographs accurately depict what they purport to represent. In other words, do they purport to represent, in the case of if it's one piece of paper, what was photographed.
A. Yes.
Q. Is that correct.
A. Yes.
Q. And if it's a magazine, it's the front cover of that magazine; is that correct. 3245

A. Yes.
MR. SNEDDON: Your Honor, I would move Exhibit 295, 632, and 634 through 681 be admitted into evidence.
MR. MESEREAU: Objection. Foundation and chain.
THE COURT: The chain objection is overruled. That goes to the weight. I'm not clear on your foundation objection.
MR. MESEREAU: The proof of actual seizure, who seized it, who they gave it to --
THE COURT: They can't hear you in the back. But I heard you.
MR. MESEREAU: It's a chain type of foundational objection. Basically the proof of who seized it, where they seized it, who they handed it to. There's evidence that there's no record of any of that.
THE COURT: All right. Counsel, the issue --
MR. SNEDDON: We established that already.
THE COURT: I'm going to overrule the objection. The chain, as I've stated, goes to weight. Go ahead.
MR. SNEDDON: Thank you, Your Honor. And we'll need the Elmo again, Your Honor.
Q. Just to clarify, Officer, before we start this process, the items that you're about to testify to with regard to the photographs and the exhibits 3246

there came out of that briefcase, 470, correct.
Excuse me, the briefcase that's in front of you in the Photograph 86.
A. Yes. I know it as Item 317.
Q. All right. Let's put up 295. And can you find the exhibit number to which that corresponds.
A. That corresponds to Exhibit No. 471.
Q. Now, you have a binder in front of you that has a number of different materials, correct.
A. That's correct.
Q. And with regard to the materials in that particular binder, are these the loose materials that were found inside the suitcase.
A. Yes, they are.
Q. Okay. Let's continue, then. If we can put up 632 that is in evidence, do you recognize that.
A. Corresponds to Exhibit No. 472.
Q. Okay. And with regard to 634.
A. That corresponds to Exhibit No. 473.
Q. Okay. 635.
A. That correspond to Exhibit No. 474.
Q. 636.
A. That corresponds to Exhibit No. 475.
Q. And exhibit in evidence 630 -- what's the next number you have there, the photograph number. 637. That would be the binder.
A. That corresponds to Exhibit No. 510.
Q. That is a whole magazine, correct. 3247

A. That's a whole magazine.
Q. It was when you first saw it.
A. Yes.
Q. And it's now in a binder.
A. Yes.
Q. 638.
A. That corresponds to Exhibit No. 476.
Q. 640.
I'm sorry, I skipped one. 639. I think
that's a magazine.
A. It's a loose page, Exhibit No. 511.
Q. Okay. 640.
A. It's going to correspond with Exhibit No.
477.
Q. Okay. Let's go to 641, which I believe is a
magazine.
A. Corresponds to Exhibit No. 512.
Q. And 642. Did you lose a tag again.
A. We lost a tag again. It appears I have a
513.
Q. That's correct.
643.
A. I have Exhibit No. 514.
Q. 644.
A. Corresponds to Exhibit No. 515.
Q. 645.
A. Corresponds to Exhibit No. 516.
Q. 646. 3248

A. Corresponds to Exhibit No. 517.
Q. 647.
A. Corresponds to Exhibit No. 518.
Q. 648. I have a note that it's a notebook.
A. Upside down.
Q. Oh, okay.
A. Okay. That corresponds with Item -- I'm sorry, Exhibit No. 519. And that is not the cover page, but it is the second page within it, which identifies what it is.
Q. All right. 649.
A. Corresponds with Exhibit No. 520.
Q. 650.
A. Corresponds with Exhibit No. 521.
Q. 3 -- I'm sorry, 651.
A. Corresponds with Exhibit No. 522.
Q. 652.
A. Corresponds with Exhibit No. 523.
Q. 653.
A. Corresponds with Exhibit No. 524, and it's a loose page.
Q. Okay. 654. And Y. That might help you. 317-Y.
A. Okay. That's Item No. -- or, I'm sorry, Exhibit No. 479, and that's a centerfold. It's one of the pages of it.
Q. Okay. 655.
A. Corresponds to Exhibit No. 480, and that's 3249

1 also one page within a centerfold.
2 Q. 656.
3 A. Corresponds to Exhibit No. 481, and that's
4 also a centerfold.
5 Q. 657. You might want to look at 317-BB. I
6 think there's --
7 A. Exhibit No. 525.
8 Q. Now, is there a -- never mind.
9 658.
10 A. Corresponds to Exhibit No. 483. It's also a
11 centerfold.
12 Q. 659.
13 A. Corresponds to Exhibit No. 485. It's a
14 centerfold.
15 Q. 660.
16 A. Corresponds to Exhibit No. 487. It's a
17 loose page.
18 Q. 488. I'm sorry, 661.
19 A. Corresponds to Exhibit No. 488. It's a
20 centerfold.
21 Q. 662.
22 A. Corresponds to Exhibit No. 489. It's a
23 loose page.
24 Q. 663.
25 A. Corresponds to Exhibit No. 490, is the cover
26 off of the magazine.
27 Q. 664.
28 A. Exhibit No. 491. It's a loose page. 3250

Q. All right. 665.
A. I'm sorry. Exhibit No. 492. It's a loose page.
Q. And 666.
A. Exhibit No. 494. Loose page.
Q. And 667.
A. Exhibit No. 495. It's the cover off the magazine.
Q. 668.
A. Exhibit No. 496. It's a centerfold.
Q. 669.
A. Exhibit No. 497. Loose page.
Q. 670.
A. Exhibit No. 498. Loose page.
Q. 671.
A. Exhibit No. 499. Loose page.
Q. 672.
A. That's Exhibit No. 500. Centerfold layout.
Q. 673.
A. Exhibit No. 501. Centerfold.
Q. Exhibit No. 674.
A. It's Exhibit No. 502. Centerfold.
Q. 675.
A. It's Exhibit No. 503. Again, centerfold.
Q. 677 -- I'm sorry, 676.
A. Exhibit No. 504. It was a pamphlet.
Q. 677.
A. Exhibit No. 505, centerfold. 3251

Q. 678.
A. Exhibit No. 506. Cover page of a magazine.
Q. 679.
A. Exhibit No. 507. Loose page.
Q. And 680.
A. Exhibit No. 508, centerfold.
Q. Lastly, 681.
A. Exhibit No. 528.
Q. All right. I think we can turn the lights back on.
All right. I want to ask you some questions with regard to the briefcase, Exhibit 470. Now, you told the ladies and gentlemen of the jury I believe -- I believe on November the 26th of 2003, you opened the briefcase and photodocumented the materials inside, correct.
A. That's correct.
Q. And inventoried them.
A. Correct.
Q. Now, when was the next time that you became involved in dealing with the materials that were contained inside of the black briefcase marked as 470.
A. On July 20th, 2004.
Q. And would you tell the ladies and gentlemen of the jury exactly what it was that you did on July 20th.
A. On July 20th, I went to the Santa Barbara 3252

Superior Court, met with the clerk who was in charge of controlling the evidence that was booked in the grand jury. And I, while wearing gloves, opened up this item and photodocumented exactly what was within there. That included not just the cover pages, but every single page and every single piece of paper that was inside that item that was booked into grand jury evidence.
And I then closed it back up, gave it back to the clerk who was maintaining custody of this item, and I prepared a CDR disk that contained those digital images that I took of the contents.
Q. Now, did you at some time go back -- did you at some time again become involved in the handling of the Exhibit 470.
A. Yes, I did.
Q. When was the next time that you were involved in that.
A. On October 1st, 2004.
Q. And the purpose for that. What did you do and where did you go.
A. A court order was signed that allowed me to check this item out of evidence and bring it back to the sheriff's department to have it forensically examined and processed.
Q. Now, did you do that.
A. Yes, I did.
Q. And did you work with any other individual 3253

in that process.
A. I -- initially, after checking it out, I brought it to Detective Lafferty. I later went back and I met with Detective Spinner, and we went through and did a much more detailed inventory of those items to ensure that each one had a sub item number.
Q. Now, Detective Spinner, do you know, he works for the Santa Barbara Sheriff's Department.
A. Actually, he is retired, so --
Q. He was brought back for this case.
A. Correct.
Q. To do some fingerprint evaluation.
A. Correct.
Q. Okay. Now, in the process of doing the -- what you call documentation of the alpha numbers given to these, were some -- did Detective Spinner already have some of the magazines at the time that you went through this process.
A. That's correct. Some of the items had already been processed and were split up and in binders, such as you see here today. Some of the other items were not in binders. They were still in complete magazine form.
Q. And the process that you did with Detective Spinner was simply to make sure that all of those items were accounted for; is that correct.
A. Correct. And to give each one a sub item 3254

1 number, and document that on something that was
2 written.
3 Q. And you did that.
4 A. Yes.
5 Q. And that's why we see on the display here
6 that they have an A, B, C, and in some cases AA or
7 GG, or whatever.
8 A. Correct.
9 Q. That was the process you documented with
10 Detective Spinner.
11 A. Correct.
12 Q. Now, at the time that you went to the Santa
13 Barbara Superior Court on July 20th of 2004 and
14 photodocumented the contents of the Exhibit 740 (sic),
15 to your knowledge, had some items already been
16 removed and sent to forensic examination.
17 A. Prior to grand jury.
18 Q. Yes.
19 A. Yes.
20 Q. And that's documented in reports, correct.
21 A. I believe so. Not mine.
22 Q. Right.
23 MR. SNEDDON: Mr. Mesereau.
24 (Off-the-record discussion held at counsel
25 table.)
26 MR. SNEDDON: Madam Clerk, I'm going to need
27 two exhibit numbers. Next in order would be fine.
28 THE CLERK: It would -- have you used the 3255

numbers through 740 yet.
MR. MESEREAU: Excuse me, Your Honor.
May the record reflect that I opened these
packages at Mr. Sneddon's direction.
MR. SNEDDON: Actually, that one was open,
but the small one was closed, correct.
MR. MESEREAU: It would be No. 122980, and
that's also No. 332.
THE COURT: All right.
MR. MESEREAU: Thank you.
MR. SNEDDON: For the record, Your Honor,
the items that Mr. Mesereau just examined, I'm going
to have the first one marked, it's a small brown
bag, which is the No. 332, which is the one he did
open, and that's Exhibit 720 for identification
purposes.
And then the next one's a larger brown bag
with Item No. #305 at the top, and that's marked as
721, and that one was already opened.
THE COURT: All right.
MR. SNEDDON: Thank you.
Q. Please take a look at 720. Do you recognize
that.
A. Yes, I do.
Q. And where was that the first time that you
saw it.
A. I found this item within a briefcase which
was in the upstairs area of Michael Jackson's 3256

1 bedroom at Neverland Ranch.
2 Q. And did you then take it into your custody
3 and control.
4 A. I did.
5 Q. And what did you do with it.
6 A. I provided it to Detective Padilla, told him
7 where I found it, what it was. And he then
8 processed it, giving it an item number, sealing it.
9 Q. And is the exhibit in the same condition
10 that it was when you seized it on that particular
11 day.
12 A. Yes, it is.
13 MR. SNEDDON: All right. Move that it be
14 admitted into evidence, Your Honor.
15 THE COURT: All right. It's admitted.
16 Q. BY MR. SNEDDON: And the next item is 721.
17 Do you recognize that item.
18 A. Yes, I do.
19 Q. All right. And where was that item the
20 first item that you saw it.
21 A. This item was sitting on a piece of
22 furniture within one of the bathrooms in Michael
23 Jackson's bedroom area.
24 Q. And it's a photograph, correct.
25 A. It is.
26 Q. And do you recognize the person in the
27 photograph.
28 A. Yes, I do. It's Macaulay Culkin. 3257

Q. And with regard to that particular exhibit,
go ahead and take it out of the bag for just a
second. Just look at it for yourself, if you would.
Now, with regard to that particular
exhibit -- 721; is that correct.
A. That's correct.
Q. 721, it looks like, on the photograph that
you withdrew from the brown bag, it has some writing
on it, correct.
A. It does.
Q. Was that writing -- was it in that condition
when you first saw it.
A. Yes.
Q. Did it have that writing on it.
A. Yes, it did.
Q. And then after you took that particular
item, what did you do with it.
A. I again took it down to Detective Padilla,
provided it to him, told him where I found it, what
it was. He then processed it by putting it into a
sealed evidence bag, and noting it on his report.
Q. And is it in the same condition as when you
seized the item on November the 11th.
A. For the most part.
Q. What's different about it.
A. There's a couple of corner pieces that have
fallen off into the bag.
Q. But they're in the bag, correct. 3258

A. Yes.
Q. So everything in substance is there that was there when you seized it.
A. Yes.
MR. SNEDDON: All right. Move that that be admitted into evidence, Your Honor.
MR. MESEREAU: No objection.
THE COURT: It's admitted.
MR. SNEDDON: Your Honor, I think I'm finished. No further questions. Thank you.
THE COURT: Cross-examine.
MR. MESEREAU: Yes, please, Your Honor.

CROSS-EXAMINATION
BY MR. MESEREAU:
Q. You have answered questions about a large number of what appear to be --
MR. SNEDDON: Tom, excuse me. Your Honor, there is one other thing I forgot to do. I've just been reminded. If you don't mind, Counsel.
MR. MESEREAU: No, not at all.
MR. SNEDDON: Thank you. Appreciate it, Tom.
Your Honor, I have a photograph that's been marked as 151 for identification purposes. May I show it to the witness.
THE COURT: Yes. 3259

FURTHER DIRECT EXAMINATION
BY MR. SNEDDON:
Q. Do you recognize the items depicted in the photograph, No. 151.
A. Yes, I do.
Q. Where and when were those items the first time you saw them.
A. These items were situated on the ground within one of the closets in Michael Jackson's bedroom area.
Q. Does that photograph accurately depict the condition of those items at the time that you seized them.
A. With the exception that I have picked them up, yes.
Q. And you've picked them up.
A. Yes.
MR. SNEDDON: All right. Move that 151 be admitted into evidence, Your Honor.
MR. MESEREAU: No objection.
THE COURT: It's admitted.
Q. BY MR. SNEDDON: All right. Would you just show to the ladies and gentlemen of the jury the photograph that's in evidence.
Now, what -- where were those -- where were those found specifically in Mr. Jackson's bedroom.
A. Within his bedroom, there were two bathroom areas. One, as you enter, was on the right. The 3260

other was on the left. Both bathroom areas had a closet that went off of it. This one was on the left side. It was a locked closet area. As you entered the closet, it made an L shape going to the left. It was within that L-shaped -- the bottom of the L on the ground on the left side.
THE COURT: Counsel, can't you put that up on the screen so the people out there can see.
Q. BY MR. SNEDDON: Okay. I think we got -- I kind of interrupted you. Could you tell me where exactly it was, what closet it was that you found it in, what bathroom.
A. Okay. Again, there were two bathrooms: One that was on the right as you entered; one that was on the left. This one was on the left side. As you entered the bathroom, there was a closet that went off to the right. This was a locked closet that we had opened. This closet was actually in an L shape. As I went in, I went into the bottom of the L, continued down, and it was on the left side on the ground.
Q. And then did you actually take the items depicted in the photograph, 152, in evidence, and book them into evidence.
A. I took them down to Detective Padilla, again told him where I found it, what they were, and he then booked them.
MR. SNEDDON: All right. Thank you, 3261

Counsel.
And thank you, Court. No further questions.

FURTHER CROSS-EXAMINATION
BY MR. MESEREAU:
Q. Regarding the items that you were just shown in the last exhibit, there's a bottle of Jack Daniels and a bottle of what appears to be red wine, correct.
A. Correct.
Q. Do you know if those bottles were ever fingerprinted.
A. I do not know.
Q. Did you have any responsibility for determining if they should be chemically tested for anything.
A. Not responsibility, but involvement.
Q. And what was your involvement.
A. We spoke about it amongst all of us that were part of the team at that point in time. And I know that they were sent off for DNA swabbing, or that they were swabbed, and that was sent off to be compared. I do not know whether or not they were fingerprinted.
Q. But they were DNA swabbed, as far as you know.
A. Yes.
Q. Did you ever get any results. 3262

A. I believe there were no results.
Q. Okay. “No results” meaning what.
A. That we did not get any comparable DNA matter off of them.
Q. Were you responsible for recommending DNA testing of any of these materials that you’ve talked about today.
A. Again, “responsible” probably isn’t the word. “Involved” is probably the more correct word to use.
Q. Do you know if any of the materials that you’ve identified today were DNA tested.
A. I know that items within 317 were sent off to the Department of Justice laboratory to ascertain if there were materials on the items which could be tested for DNA.
Q. And just -- just for the record, Item 317 is what.
A. I’m sorry. It’s the briefcase that had these materials in it.
Q. Okay. And to your knowledge, there was no DNA found, correct.
A. That is correct.
Q. And you’re talking about -- you’re talking about DNA testing of the briefcase, correct.
A. Of the materials within the briefcase.
Q. Yes. Are you talking about the briefcase itself, too. 3263

A. No.
Q. Okay. And what you're saying is no DNA of Gavin Arvizo, or Star Arvizo, or any Arvizo, were found, correct.
A. No DNA at all, including theirs.
Q. Okay. Now, you say you were involved in decisions regarding DNA testing, right.
A. Correct.
Q. What does "involved" mean.
A. We had meetings where we discussed what was going on, who was going to do what, and we -- this type of -- you know, it included dispositions of evidence, who was going to go do interviews with whom. And we spoke about what we wanted to do and in what order that we wanted to do it.
Q. And who was at these meetings typically.
A. Typically would include, at minimum, Lieutenant Klapakis, Sergeant Robel, Detective Zelis, Detective Alvarez, and myself, and many times also included members of the prosecution.
Q. Now, you've identified a lot of what appear to be commercially produced adult material, right.
A. Correct.
Q. And all of it appears to be commercially produced, for the most part, doesn't it.
A. For the most part, yes.
Q. And all of it appears to be the type of material you can lawfully purchase, correct. 3264

A. Depends.
Q. Well, you can go to most magazine stands that sell this kind of material and find thousands of magazines that you can buy like that, correct.
A. Yes.
Q. Okay. And it goes without saying, Mr. Jackson is not being charged with possessing or anything related to this kind -- illegal adult material, is he.
A. We have not charged as such, no.
Q. Okay. Have you actually checked to see if you can find these magazines available in a commercial market type of situation.
A. No, I have not.
Q. Have you gone to newsstands to see if you can find this material available at newsstands.
A. No.
Q. Have you ever done any -- made any effort to find out where you can actually go buy this stuff.
A. No.
Q. Okay. And you don't know where a lot of this material originated, correct.
A. I do not.
Q. You don't know if it was mailed to Mr. Jackson or purchased on his behalf, correct.
A. For the most part, no.
Q. Okay. With respect to DNA testing, was the DNA testing that you're aware of limited to 3265

materials in the briefcase.
A. As far as I'm aware of, yes.
Q. Okay. And as far as the other exhibits you've talked about today, which appear to be, for the most, part adult material, you're not aware of any DNA testing on those exhibits, correct.
A. I am not.
Q. If any were done, would you most likely know about it.
A. Probably, yes.
Q. And that would be because of your involvement that you've just described.
A. Yes.
Q. Okay. Now, were you involved in actually searching and seizing some of this material.
A. Yes, I was.
Q. Okay. Was that your primary role during the day of the search.
A. Initially it was not.
Q. What initially was your role.
A. Initially myself and Detective Alvarez were assigned to go conduct an interview with a witness.
Q. Okay. And then following that, you went to Mr. Jackson's main residence, correct.
A. Neverland, correct.
Q. And you started conducting a search, right.
A. Initially, again, I was assigned to assist in interviews. 3266

Q. Okay. Okay. Now, let me ask some questions about Exhibits 471 to 529. Okay. And they're the items that you say were found inside of 470, which is the black briefcase, right.
A. Item 3 -- I'm sorry, I normally know things by our item numbers.
Q. The black briefcase is Item 470, right.
A. Yes.
Q. And Exhibits 471 to 529 were found inside of that briefcase, right. Do you know.
A. I -- I cannot -- if you show me the item, I mean, obviously we're dealing with a lot of numbers here. If you tell me, like, our evidence item, I can tell you whether or not it came from that.
Q. Let me approach it from a different way. I think you said at one point, in response to the prosecutor's questions, that you had checked out items out of 470, which is the black briefcase, correct.
A. Correct.
Q. And I believe you said those items were 471 to 529.
A. I have identified them as such by cross-referencing them, looking at the materials, looking at the actual physical items and also checking it against our evidence item number, which is how we track items, as opposed to the court tracking of items. 3267

Q. Am I correct that you testified you checked out Items 471 to 529.
A. Yes.
Q. Okay. So you know what they are, right.
A. Yes.
Q. And presumably before you testified today, you went over some of this with the prosecutor for the government, right.
A. Correct.
Q. Okay. And when did you do that.
A. I did that on Tuesday.
Q. Okay. Did you have any items of evidence with you at that point.
A. No, I did not.
Q. Okay. How did you discuss what numbers you were going to testify about. Maybe that's not a good question.
You clearly discussed what numbers you were going to testify about, true.
A. Correct. Yes.
Q. And did you use anything to facilitate your ability to prepare for your testimony today.
A. Yes, I did.
Q. What did you use.
A. District Attorney Sneddon provided me, one, with the pictures that he has introduced.
Q. Okay.
A. They also were in possession of the actual 3268

physical evidence items, okay. I also compared that with my reports that I authored and with pictures that we have taken.
Q. Okay. Now, you took them out originally. Was it at the sheriff's department.
A. The first time.
Q. Yes.
A. Yes.
Q. And what did you do with them.
A. I pulled them -- I opened up, for instance, on this particular one, the briefcase, broke the seals, I opened it up. I then inspected the contents of it. As I was doing that, I was dictating a report of the contents of it, and taking photographs of the contents. Once that was completed, I then put the materials back where they were originally, closed it, sealed it, and then booked it back into evidence.
Q. And were you alone when you did that.
A. Yes.
Q. At some point, did you separate some of these materials yourself.
A. For Item 317.
Q. Any item.
A. Item 309, yes.
Q. What you did was you took the item apart, right.
A. I took two of the items which were contained 3269

1 within the original evidence, Item 309, which was
2 the briefcase, that being the two adult material
3 DVDs, and I put them into the separate bag.
4 Q. Okay. Did you ever separate any of the
5 photographs that are contained in the exhibits you
6 referred to today.
7 A. No.
8 Q. Okay. Did you ever pull any pages or photos
9 out from any attached type of magazine.
10 A. No.
11 Q. Okay. Do you know if anybody ever did.
12 A. Yes.
13 Q. Okay. Somebody did.
14 A. Yes.
15 Q. Who did that.
16 A. Forensics personnel.
17 Q. So they took magazines and actually
18 separated pages out, correct.
19 A. Correct.
20 Q. Okay. And do you know when that was done.
21 A. I do not.
22 Q. Okay. How do you know it was done.
23 A. I have read reports. And again, during our
24 meetings where we discussed what's going on with the
25 case, again I've heard conversation to that effect.
26 Q. And were the items then returned to you.
27 A. No, they would have been returned to the
28 evidence locker, to our property office. 3270

Q. So they would have been returned to the evidence locker, separated out from what they originally were like, right.
A. Correct.
Q. And basically what you're saying is people at forensics, when asked to test a particular item, would take that item apart, right.
A. Correct.
Q. And your understanding was they would take that item apart, because that would facilitate forensic analysis of some kind, right.
A. Yes.
Q. Okay. And you were part of the -- you were part of the group that decided which items to forensically test in that manner, correct.
A. Discussed. Decisions are done at a higher level than a detective.
Q. Who made the decisions to forensically test some items and not forensically test others.
A. At minimum, probably with Lieutenant Klapakis, and it probably also involved members of the prosecution.
Q. Okay. And that would be Prosecutor Sneddon, Zonen, Auchincloss.
A. Yes.
Q. Okay. All right. Now, there must have been meetings where you had discussed whether or not to forensically test certain items, correct. 3271

A. Correct.
Q. And you would presumably look at an item and decide, “Do we want to test this or not,” right.
A. Sometimes look at them; sometimes they weren’t checked out. For the most part we check them out one time, and allow them to look at them, just like we allowed you guys to look at them. And based upon that, we categorized them and began to make a priority list of which items should be done first.
Q. Now, am I correct that no forensic testing of any of the items you’ve identified today was done till after the grand jury met.
A. I do not believe that’s correct.
Q. Okay. What items that you identified today were forensically tested before the grand jury convened.
A. I believe certain items within 317 were forensically tested and subsequently sent out to the California Department of Justice for further testing.
Q. Okay. And were you involved in that process.
A. No, I wasn’t.
Q. Okay. Well, to this date, you’ve never found Gavin, or Star, or any Arvizos’ DNA on anything, right.
A. We have not. 3272

Q. So the first time you checked out Items 471 to 529 was to photograph them, as you just described, right.
A. Correct.
Q. And then you repackaged them and put them back in the condition you found them and rebooked them into evidence, right.
A. Correct.
Q. Okay. Were you responsible for conducting any fingerprint analysis of any of the items contained in 470, the briefcase.
A. None whatsoever.
Q. Okay. Do you often do that in your type of work.
A. Never have.
Q. Okay. Are you familiar with what is called ALS, an alternate light source type of test for fluids.
A. Yes, I am.
Q. Do you know if that was ever done on any of the items you've identified today.
A. I believe it has.
Q. And which items would they be.
A. I believe it was done with certain items within Item 317.
Q. Were you part of the group that decided to make that type of test or, excuse me, to do that type of test. 3273

A. I was part of the group that discussed it.
Again, the decision would have been made, but, yes,
I was aware of it.
Q. Now, if a decision was made to do forensic
testing, would you be the one to essentially refer
it to forensic people in this case.
A. Not in this case, no.
Q. You've done it in other cases, though,
right.
A. Yes.
Q. Typically, once a decision was made, who
would be the one to actually be responsible for
referring an item of evidence for forensic analysis.
A. Typically.
Q. Yes.
A. Under any other or most other instances, it
would be the lead investigating officer.
Q. Okay. And in this case, who were you
referring to.
A. Well, in this case Detective -- or Sergeant
Robel was the lead investigating officer.
Q. Okay. So as far as you know, was he the one
that had the responsibility, once a decision was
made, to refer an item of evidence for forensic
examination.
A. In this particular case, I believe it would
have been actually Lieutenant Klapakis.
Q. Okay. Okay. Let's get back to the first 3274

time you removed items from the black briefcase, which is No. 470. You put them back, and do you know what -- you rebooked them into evidence. And to your knowledge, what happened after that to that black briefcase.
A. Other than the times that I personally came into contact with it, I have not had any contact. I don't know for certain. However, I do know that we have checked items out for you guys to look at, as well as for the prosecuting attorneys to look at, and then it has gone out to grand jury, and then also to forensics personnel.
Q. Okay. When did you next handle the black briefcase, No. 470, and its contents.
A. That would have been on July 20th.
Q. And again, the purpose for that was.
A. There was a court order that basically stated, prior to us being able to remove these items, I had to go and photographically document the contents of the item, and turn those photographs over to you guys, and eventually to provide a copy to the court as a replacement for what we were taking.
Q. Okay. And did you repackage these items again.
A. I put them back into the briefcase.
Q. And how did you do that.
A. Put them back in where I found them as I 3275

1 opened it.
2 Q. And you had gloves on your hand, correct.
3 A. Yes, I did.
4 Q. Did you have gloves on your hands at all
5 times when you handled 470.
6 A. Yes.
7 Q. Would that include at the main residence as
8 well during the day of the search.
9 A. I didn't handle Item 470 at the main
10 residence.
11 Q. Never touched it that day.
12 A. No.
13 Q. Now, to your knowledge, an alternative light
14 source type of test can be done in approximately a
15 day, correct.
16 A. I don't know how long it takes.
17 Q. Okay. And to your knowledge, it's not a
18 destructive type of test, meaning it doesn't
19 actually --
20 A. No.
21 Q. -- harm or destroy an item of evidence,
22 right.
23 A. No.
24 Q. Okay. And I think what you're saying is at
25 some point people at forensics must have repackaged
26 the material and sent it back to re-book it into
27 evidence, right.
28 A. Correct. 3276

Q. Okay. Were you part of that process at all.
A. No.
Q. Okay. Is it true, based upon what you know, that no fingerprint analysis of Item 470, the black briefcase and its contents, was done till approximately one year after the search at Neverland.
A. That sounds about correct.
Q. Okay. Were you involved in the decision to wait that long --
A. No.
Q. -- to test it.
In fact, those items in 470, the black briefcase and the contents, were not tested for fingerprints till approximately November of 2004, right.
A. I know it happened after I checked it out.
Q. Okay. Okay. Now, you appear to have focused on Item 470 more than you did a lot of the adult magazines you discussed today, correct.
A. What do you mean by --
Q. Well, you seem to have been handling and repackaging and handling and repackaging 470 --
A. Correct.
Q. -- in a way that you were not with a lot of the adult material that you referred to today, correct.
A. Correct. 3277

Q. But, are you saying that the question whether or not to forensically test that material all came up for discussion with the group of people you mentioned.
A. Yes.
Q. Okay. And typically would the group sit around and look at something and decide where it was found and make a decision whether or not to test it.
A. We wouldn't look at it. Again, we would discuss it. These items were, at the time, in evidence lock-up still, and basically we went through what was found, what was found within it, and how it correlated to the case that we were investigating and prioritized from that.
Q. Okay. Okay. With regard to the items you've discussed today other than 470, do you recall, after they were initially booked into evidence, your retrieving them for any purpose.
A. Again, the first time was when I pulled it out to inventory the contents. I have also pulled it out for you guys to look at, as well as for members of the prosecution to look at, and that's what I -- and then also to bring them to court.
Q. Okay.
THE COURT: Counsel.
MR. MESEREAU: Yes, Your Honor.
THE COURT: I want to handle the break a little differently. 3278

MR. MESEREAU: Sure.
THE COURT: I'd like to have the jury taken out now. We'll start your break a couple minutes early. That's a reward.
(Laughter.)
THE COURT: And then we'll start our break just in a couple of minutes for the people in the courtroom. I just want to address an issue. You can step down, Officer. We're on our break.
THE WITNESS: Thank you.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: All right. I was just going to make a ruling. I told you this morning that I had a tentative ruling, which I gave you, and I wanted to look at the materials a little further that were submitted to the Court before I made my ruling. The Court will grant the defense motion not to allow that evidence in. The primary reason is, it does appear to be cached material. There wouldn't be any way of knowing whether anyone looked at it or not. It doesn't seem to be material, as it doesn't relate to the area -- the time area that I'm talking about. So that will be the Court's ruling. 3279

We're in recess.
MR. SANGER: Your Honor --
THE CLERK: We did not have those exhibits marked.
THE COURT: Oh, I need those exhibits marked that you referred to in your opening --
MR. AUCHINCLOSS: Okay. Yes. That's fine.
THE COURT: -- these.
(Recess taken.)

(The following proceedings were held in open court in the presence and hearing of the jury:)

THE COURT: Go ahead, Counsel.
MR. MESEREAU: Thank you, Your Honor.
No further questions.
(Laughter.)
THE COURT: Anything further, Counsel.
MR. SNEDDON: Unfortunately, yes. It will be brief.

REDIRECT EXAMINATION
BY MR. SNEDDON:
Q. You were asked by Mr. Mesereau with regard to the time frame for which the contents of 3 -- what you call 317, we're calling 470, the black briefcase, okay. 3280

A. Okay.
Q. They were sent for fingerprint analysis around November of 2004, correct.
A. Correct.
Q. All right. Now, with regard to those items inside of that briefcase, were they sent to other forensic evaluation prior to the time that they were fingerprinted.
A. Yes, they were.
Q. Was that according to the game plan that was put together by the group as to how those things should be processed.
A. Yes, they were.
Q. And the forensic analysis for the same exhibits that were eventually fingerprinted began very early on.
A. Yes, it was.
MR. SNEDDON: Nothing further.
MR. MESEREAU: No further questions, Your Honor
THE COURT: All right. Thank you. You may step down.
Call your next witness.
THE BAILIFF: Mr. Zonen is --
MR. SNEDDON: Everybody's leaving me, Judge.
THE BAILIFF: Mr. Zonen went to get your next witness.
MR. SNEDDON: They're getting him. Mr. 3281

Auchincloss's witness, Your Honor. He should be coming.
THE COURT: Oh, I decided the time Monday for you to come in is 11:30. We'll start the jury at 11:30.
A JUROR: Thank you.
THE COURT: Come forward, please.
MR. AUCHINCLOSS: Your Honor, our next witness will be Dr. Antonio Cantu.
THE COURT: Come forward to the witness stand, please. When you get to the witness stand, remain standing, face the clerk and raise your right hand.

ANTONIO A. CANTU
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: Thank you. My name is Antonio A. Cantu. Last name is spelled C-a-n-t-u.
THE CLERK: Thank you.
MR. SANGER: Your Honor, could I inquire who the people are who are standing in the aisleway.
MR. AUCHINCLOSS: Yes, you may. Your Honor --
MR. SANGER: I did ask the Court. 3282

MR. AUCHINCLOSS: I'm sorry.
THE COURT: The Court doesn't know.
MR. AUCHINCLOSS: So I will be happy to explain.
THE COURT: Go ahead.
MR. AUCHINCLOSS: Your Honor, as we mentioned in chambers, we have a demonstration of the Scenescope, which is the technology that was used in this case for purposes of finding latent fingerprints.
And if -- with the Court's permission, I would like to allow our -- Detective Sutcliffe to set up the Scenescope while I'm beginning my examination.
THE COURT: All right. Go ahead.
MR. AUCHINCLOSS: If that's permissible.

DIRECT EXAMINATION
BY MR. AUCHINCLOSS:
Q. Good afternoon, Dr. Cantu.
A. Good afternoon, sir.
Q. Who do you work for, please.
A. I work for the United States Secret Service, the Forensic Services Division within the United States Secret Service.
Q. And what do you do for the Secret Service.
A. I am the chief scientist, research scientist, for the Forensic Services Division. And 3283

my many duties includes the chemistry and physics of things having to do with documents. For example, fingerprints, or inks on paper, or any other items that may be found on a document.
Q. How long have you worked for the Secret Service in this capacity.
A. Well, I've been with the Secret Service about 20 years. And I've been working in this particular area, among others, for that extended period of time.
Q. And tell me about what training you've had that qualifies you for your position there. Maybe I'll back up. First of all, tell me specifically what your title is with the Secret Service.
A. I'm a chief forensic scientist.
Q. And what qualifies you for that position. What training have you had.
A. Well, first of all, I have a degree in chemistry. Chemical physics, actually. And I've had some training in -- in forensic science. I spent about ten years at the Bureau of Alcohol, Tobacco and Firearms Laboratory, where I developed the expertise particularly in the area of the analysis of documents from a chemical and physical point of view.
Q. Have you had -- tell me about your experiences with the Secret Service. Have your -- in terms of what work you've done for them in the 3284

past.
A. Most of the work that I have done for the Secret Service falls into two general areas. I spent part of my time over there doing some work in the area called protective research, which has to do with coming up with countermeasures to possible threats that would involve chemical, or biological, or different materials.
But the rest of the time has been really the area of forensic science, where my expertise has been mostly in the area of the analysis of documents from a chemical and physical point of view, as I mentioned.
Q. Have you had any published papers in the area of forensic science.
A. I've already published about 26 papers that I have in the field of forensic science.
Q. Any of them in fingerprint analysis, or --
A. There are -- about seven of those are in fingerprints, and two are pending publication at the moment.
Q. How long have you been involved in the chemistry of fingerprints.
A. In excess of 20 years.
Q. And can you tell me what the International Fingerprint Research Group is.
A. That is a group of international experts that, most of which, specialize in the area of 3285

coming up with new technology for visualizing fingerprints, for developing fingerprints. And they are -- the biggest centers involved in this are Israel, England, Australia, and of course us in the United States.
And we started that group at the U.S. Secret Service back in the middle ‘80s. And now we meet every couple of years, different parts of the -- Europe and the United States and Canada.
Q. Are you involved in developing new techniques in locating latent fingerprints.
A. Yes. New techniques particularly in the visualization of fingerprints. We are responsible for developing a new technique for visualizing fingerprints, particularly those that are visualized normally by the use of ninhydrin. And it’s a technique for essentially looking at fingerprints on paper and coming up with better, more sensitive methods.
There’s another technique for looking at the fats and oils in fingerprints, and we helped develop new advances in that area, being able to bring them out better, and looking at weaker prints and being able to see them better with this technology.
And then thirdly, I’ve been involved in a technique that has to do with the use of ultraviolet light basically in visualizing fingerprints.
Q. Tell me, what does the term “latent 3286

fingerprint" mean.
A. It's not noticeable. I mean, it's basically a fingerprint that is not noticeable to the human eye but becomes noticeable by means of either chemical or physical techniques.
Q. And can you explain for the jury exactly what it is, from a chemistry point of view, that creates a fingerprint on a surface when a human hand touches it.
A. Well, our fingers bear certain chemicals on them. These chemicals are on the surface of the hand. And every time you touch something, there is some transferability of those chemicals onto the surface that you touch.
And what we do, in our field, is try to find methods of making those things be visible, either by optical methods or chemical methods or physical methods. And to be able to do that, one has to, first of all, know what is in fingerprint residue, that is, what chemicals, so you know what sort of reagents to use to make them visible. So that's the general philosophy of -- that is used in developing fingerprints.
Q. Can I have just a moment.
A. Yes.
(Off-the-record discussion held at counsel table.)
Q. BY MR. AUCHINCLOSS: All right. So tell me 3287

specifically -- you mentioned that there are biological substances that are left behind by a fingerprint, by the human hand.
A. Correct.
Q. Okay. Are those -- can you describe the basic grouping of chemicals that are left behind by a human fingerprint.
A. There are several chemicals. I can generally group them into those that are water-soluble chemicals, and they include amino acids, and those that are water insoluble, and they are the ones that are normally referred to as the fats or oils, or more precisely, lipids. And the water-soluble ones contain amino acids, proteins, salts, and other things. But it is the amino acids that are really the target items that we look at to try to visualize these things. As far as the water insoluble ones, it's usually the lipids or the fats and oils that we use as the materials that we target chemicals or methods to be able to visualize these.
Q. So, tell me, what are the biological origins of the water-soluble group of materials that is left in fingerprints.
A. Well, I'll give you an answer to both the water soluble and water insoluble. The water soluble ones are the ones that are found mostly on the palms of your hand or the soles of your feet. 3288

And there you have one type of gland referred to as an eccrine gland, and they are the ones that release the amino acids and certain proteins that are water dispersible, and certain salts.
But there are other glands as well. There's some that you have that are different from the eccrine gland. The armpits or the groin area have glands referred to as apocrine glands, and they release other forms of water-soluble material.
And then the third group of glands that we have in our skin are referred to as the sebaceous glands, and these are the ones that actually put out the -- the lipids or the fats and oils. And they exist in the scalp and the face and the nose area.
But -- and of course the -- anywhere where you have hair you would have these glands as well.
Q. So if I understand correctly, your hand doesn't have any oil glands.
A. That's correct.
Q. Or fingers.
MR. SANGER: I'm sorry, I'm going to interrupt for just a second.
I understand Detective Sutcliffe is going to be a witness, and I didn't object to him just coming in during the preliminaries here and helping to set this up, but I don't think he should be here during the testimony.
MR. AUCHINCLOSS: That's fine. I will call 3289

him back for the demonstration, if that's permissible.
MR. SANGER: But all witnesses are excluded on both sides.
MR. AUCHINCLOSS: I did notify counsel that Detective Sutcliffe was here setting it up when he was doing so.
(To Detective Sutcliffe) All right. We'll call you back in, Detective, as soon as we get to the demonstration. Thank you.
Q. All right. So getting back to these substances that leave fingerprints, there's no lipids or oil glands, sebaceous glands, in your fingertips; is that true.
A. True. Yes, that is correct.
Q. But sometimes you will leave lipids or oils or fatty substances that are produced by your body by your sebaceous glands on a fingerprint.
A. That is correct.
Q. And how does the oil get on the finger.
A. Normally by touching your face or your hair would be one way of transferring that material onto your fingers.
Q. I see. And is that a common way of establishing a fingerprint that's based on fatty oils, or oils.
A. Yes. If you find the fatty oils in there, it's usually assumed that they come from that 3290

contact, or perhaps handling something exogenous, something outside, like face creams and lotions or food.
Q. Okay.
A. Stuff like that.
Q. So is that a third grouping that can produce a fingerprint. Foreign substances.
A. Yes.
Q. Nonbiological substances, or something that came outside the body.
A. That is correct.
Q. Okay. So, tell me, explain to me what optical methods are used in visualizing these latent prints when they're left behind.
A. Optical methods would be -- there are about four methods that I will describe. One of them is just a visual examination of the material that you're looking at that may have the fingerprints. And occasionally lighting in a certain direction. Or if a print, for example, is one which is found on something like clay or putty, you can actually see the imprint in there, very, very simply. And -- otherwise, you have to use other methods. Now, there are cases as well where you have a print that's heavy laden with material, and you touch something, and then you can say, "Oh, you made a smudge on the glass," or, "a smudge on the T.V.," or, "a smudge on my screen." That's, again, some of 3291

1 the residue that you leave behind. And sometimes
2 that could be actually seen without anything else
3 but just proper illumination. When some of these
4 fail and cannot be photographed or documented, then
5 there are other methods that are used.
6 For example, you could use ultraviolet
7 light. And there's certain proteins and amino acids
8 that actually fluoresce in -- when illuminated with
9 ultraviolet light. They fluoresce in the
10 ultraviolet. Tryptophan is one such material that
11 does that. And for that, you illuminate with the
12 ultraviolet light and view it in the ultraviolet
13 region.
14 And then there are other cases in which you
15 may find fluorescence, but in this case, visible.
16 That is, you illuminate with a visible light and
17 then block it with, for example, a green light
18 produced by a laser, and then you block that with
19 orange goggles and you see some fluoresence. And if
20 it's inherent, if it comes from the skin, that is
21 normally due to perhaps bilirubin - that's a
22 biological chemical - that may be in the hand.
23 And then lastly, a method that is used for
24 very smooth surfaces, very glass-like surfaces,
25 would be a reflectance technique. You illuminate,
26 and you view this thing in a reflected mode. And
27 the most sensitive of those would be viewing in the
28 ultraviolet. That is, you illuminate with 3292

ultraviolet, then you have to have something that sees in the ultraviolet. So there's imaging devices that are capable of viewing in the ultraviolet, and that's what we use.
Q. So if I understand correctly, you might use different methods depending upon the surface. Is that fair to say.
A. That's --
Q. For looking for latents.
A. That's correct.
Q. And is it also fair to say that different methods might capture a fingerprint that is amino-acid based or water-soluble based. True.
A. Uh --
Q. Some methods are designed to capture the protein-based residue. Is that fair to say.
A. Yes, sir.
Q. And are some methods more suitable for capturing the oil-based residue.
A. Yes, that is correct.
Q. Okay. So I didn't ask you this question, but I think the jury understands it.
Is it true that the -- the amino or protein product that might be left behind, is that something that comes from the finger itself.
A. Yes.
Q. Okay. So the amino acids are something that your finger secretes. 3293

A. That is correct.
Q. Okay. All right. So tell me, if I touch something, does that mean it's going to leave a fingerprint.
A. Not necessarily.
Q. And why do you say that.
A. Well, there are several reasons why it may not, and one of them is your hand is quite dry and just doesn't transfer anything.
And secondly, the surface may be one that sort of rejects any sort of materials that may be put on it and it doesn't have the absorbency of the material that's on your finger.
And then thirdly, the surface may be quite corrugated or textured and it -- the transfer may be there, but it's not very resolvable.
Q. Is it fair to say that textured objects are poor surfaces for fingerprints.
A. Generally, yes, they are. Depending on the roughness of the surface.
Q. For shiny, smooth paper, such as you might find in a magazine, can you please describe how one detects latent fingerprints that that magazine may hold.
A. Well, I mentioned earlier, I answered the question about the optical methods, and one of the optical methods that I mentioned earlier was the fact that if you have a very smooth surface or 3294

glass-like surface, you could use these reflected ultraviolet techniques.
And for something that's a very, very smooth surface, like a magazine paper, something like that, one of the first techniques that I would use would be to see if it could be visualized without doing anything to it; that is, just by seeing if this technique of reflected ultraviolet visualization will bring out anything.
And then the next step --
Q. Let's stop right there. What do you mean by "reflected ultraviolet". Tell me specifically what you do to examine this piece of paper for fingerprints without the aid of anything else, other than perhaps reflected ultraviolet.
A. I'll do it by means of an example.
Q. Okay.
A. If you put, for example, your finger on a piece of glass, that's a very smooth surface. You sometimes can turn that glass around and actually see the print on there.
When you view it in the ultraviolet, that's magnified immensely, and it's due to the fact that the fingerprint residue itself becomes very reflective. And secondly, it -- it's a scatter media for the light. It just casts the light and reflects it in multi directions. The fingerprint material becomes like micromirrors. It becomes very 3295

reflective in UV. And that's essentially how this thing is able to enter the fingerprint on a very smooth surface. And of course paper that is very glossy is of this category as well.
Q. So is that -- ultraviolet light, is that synonymous with ALS, or alternative light source.
A. No, sir.
Q. That's something different.
A. That is correct.
Q. Okay. So if you were -- looked at it with ultraviolet light, would that be something different than a Scenescope.
A. No.
Q. It would be the same as a scenescope.
A. It is similar to a Scenescope.
Q. Okay. Would you use -- now, I guess the common notion is that ultraviolet light is something like a black light.
A. That is correct.
Q. Okay. Is that what we're talking about here.
A. A little more than that.
Q. Tell me what you mean.
A. "Black light" that you normally hear is what you may see in places of entertainment where they have the ultraviolet light tubes called "black lights." That light is ultraviolet, but it's -- the wavelength of it is -- first of all, it's for the 3296

eye safe reason, and that's the same sort of ultraviolet that the sun puts out. The one I'm talking about is shorter wavelength. It is the ultraviolet light that the sun puts out, but it's sort of blocked by the ozone layer of the earth. You don't get those rays, the shorter wavelength rays.
And the reason this technology works so well is because the shorter the wavelength, the better you can see this surface roughness that may be caused by the fingerprint on the object. And the shorter the wavelength, the less that surface has to be in size. In other words, the shorter the wavelength -- the one that we use is called 254 nanometers. That can detect roughnesses or it can scatter the roughness of one 100,000ths of an inch. So it works very well for very, very light fingerprints on surfaces.
Q. Okay. So tell me what a ridge is.
A. Well, a ridge is the -- in a fingerprint, it is the raised portion of the fingerprint that meanders throughout the finger.
Q. So it's like one of the lines in the fingerprint.
A. That's correct.
Q. So using that as an example, a ridge would be material that is on the surface that you're looking at. Is that fair to say. 3297

A. That's correct. When you transfer the chemicals, you actually transfer the pattern that's found on the ridges.
Q. Okay. And when the light hits the ridge, you said it scatters. Can you give me a little better idea what that means.
A. Yes. When the light hits the ridge, it actually reflects, and -- but in multiple directions.
Q. And if I understand correctly, the ultraviolet light will reflect in multiple directions, but the daylight that we have is too big a wavelength to scatter and make the print visible.
A. It doesn't scatter as well.
Q. Okay. So the ultraviolet light with the shorter wavelength scatters better.
A. That is correct.
Q. And allows you to see the print better.
A. That is correct.
Q. Okay. Now, that was the first method. We just started talking about the methods of trying to find fingerprints on a magazine. What next. What else would you do on shiny magazine paper.
A. Okay. What we described so far is -- you know, there's no chemical treatment. No nothing. You just see the raw fingerprint. The next step that you would do on surfaces like that, or any nonporous surface as well, would 3298

be to use fuming with a gas. And the gas is referred to as cyanoacrylate ester, or better known as super glue. And the super glue gases, when they see, for example, fingerprint residue, they see in it things that trigger its polymerization, basically a material that is basic, like amino acids. It also -- water is another substance, or moisture triggers this condensation and polymerization of the cyanoacrylate material that's in the gaseous form, and that basically forms around the fingerprint and becomes another way of visualizing the fingerprint. Normally they appear whitish in color after you finish doing the polymerization. So in essence, you put the material in this vapor, and the polymerization occurs around the fingerprint. And then you pull it out, and you sometimes can see the fingerprint in there. But it does a couple of things. It hardens the fingerprint, and it also makes it just slightly bigger than what it was before as far as the thickness.

So, if you don't see the fingerprint by means of this method, then you can submit it again to the ultraviolet reflection, and the super glue treatment actually enhances, even, that more. I've seen cases where, for example, I had a substance in which I saw, let's say, ten fingerprints using the RUVIS -- I'm sorry, using the ultraviolet technique. It's referred to as 3299

Reflected Ultraviolet Imaging System. I just called it RUVIS, but that's what it stands for. And then I did super gluing, and multiple more fingerprints showed up after that with the RUVIS, with the Reflected Ultraviolet System.

Q. So you take a magazine, and you said you somehow coat it with this super glue. Is that how it works. You put a very fine coat of super glue on the magazine.

A. It only condenses primarily around the portions where the fingerprint residue is.

Q. Okay. And is this cyanoacrylate, whatever you said, is this the same product that we use at home as super glue.

A. Yes, it's a cyanoacrylate ester.

Q. And when you say "polymer," what does that mean, polymerization.

A. The polymerization process is basically the single molecule of the cyanoacrylate ester, and just -- chemically it multiplies itself and becomes a very long chain, and that's referred to as a polymer.

Q. So what is the process of getting this polymer to condense around the fingerprints. What happens in the lab when they do that. What do they do.

A. Oh --

Q. How do they get it to -- 3300

A. The way it's normally done, you have a shaver, and some people actually use something like a fish tank. And they get the cyanoacrylate liquid, like your super glue, and put it in a small aluminum dish. And you heat this by putting it on a heating pad, or a heating mantel, or some sort of heating source. And also you have some water on the site. It's the moisture content that is used to condense around the fingerprint residue.
And then you let it sit there for a period of time. It sits probably ten minutes or more. And then by that time, you can begin to see the fingerprints being developed on the material. And then you take it out. And basically that's about it.
It is a very simple process that you see periodically on "CSI" referred to as, you know, super glue fuming.
Q. Does super glue fuming enhance the water-based materials, the oil-based materials, or some combination.
A. It enhances both.
Q. Okay. So it enhances -- whatever material is there, it will condense and form a bigger ridge or a more visible ridge. Is that fair to say.
A. That is fair to say. As far as the water-soluble material, it has the amines. As far as the water-insoluble material, it has certain 3301

lipoproteins, and proteins contain the amines. And there's also moisture condensed in there as well.
Q. So let's talk about RUVIS. You mentioned that term, Reflective Ultraviolet Imaging System.
A. Yes.
Q. What is RUVIS. How is that technology normally used in forensic science.
A. I've used that term maybe two or three times in my discussion, and it involves two things. The system itself, the imaging system, and the illuminator. The illuminator is simply an ultraviolet lamp, but works in that short wavelength region.
I might add if you're not familiar with the short wavelength region, stamp collectors normally use that to be able to examine their stamps. U.S. stamps have material in it that only glows under short wave, not long wave. So you would see that type of lamp among stamp collectors.
So anyway, it is that type of lamp that you use to illuminate your substance that you're examining. And then you image it with a system that is capable of seeing that region. Human eyes can only see in the so-called visible region. It doesn't see ultraviolet, it doesn't see infrared, so you have to use special imaging systems to see in those regions.
In the infrared, you have things called 3302

night vision scopes. In the ultraviolet, there are scopes out there that have intensified tubes in there that can see in the ultraviolet, and that's what we currently have.
The optical system for viewing has a filter in front of that system that only allows the short wavelengths to go through. So essentially you're illuminating with light that is of a certain frequency. To be exact, it's 254 nanometers. And then you have a filter on the system that is only able to allow that wavelength to go through.
So the -- the so-called imager consists of the filter, a lens, which has to be made out of quartz, otherwise ultraviolet light couldn't go through. And then inside is referred to as an image intensifier. Basically it converts that ultraviolet light that's hitting the surface into visible light, into a phosphor, and then you are able to see it at the other end. And some people put a camera at the other end to view that, or other people can just look at that phosphor screen and see the image.
So basically that's what the Reflected Ultraviolet Imaging System is.
Q. Now, you've talked about infrared, and you've talked about ultraviolet. Are those the two ends of the light spectrum.
A. Well, the two ends of the visible spectra. There's more to it than a one end and more to it on 3303

1 the other.
2 Q. Okay.
3 A. But if you have the visible spectra, the
4 so-called lower end would be the ultraviolet, the
5 higher end would be the infrared.
6 Q. Okay. Now, the infrared is the -- tell me
7 about the technology that is used in a product
8 called the Scenescope.
9 A. The Scenescope is basically what I just
10 described as the RUVIS, the Reflected Ultraviolet
11 Imaging System.
12 It consists of a scope that is able to see
13 in the ultraviolet, a filter, and the illuminating
14 light, and a camera sometimes sits on top. And it's
15 actually on the stand there, that you see.
16 Q. So this object to my left here is a
17 Scenescope with a camera mounted on it.
18 A. That's just the one part. That's just the
19 viewing portion. I don't see the illuminator set up
20 yet.
21 Q. Would this be the illuminator.
22 A. That would be the illuminator.
23 Q. Okay. So the Scenescope has an ultraviolet
24 light, true.
25 A. Correct.
26 Q. And a special device that makes that light
27 visible; is that true.
28 A. That is correct. 3304

Q. Okay. So it works in two different realms,
or two different ways. It projects ultraviolet
light and then allows you to look through a special
instrument to see that ultraviolet light.
A. The reflected light.
Q. The reflected light. Okay.
And I think you previously explained that
this light is uniquely suitable to observe the
scatter effect of very tiny residue that's left by
fingerprints.
A. On smooth surfaces.
Q. All right. So, lastly, we haven't talked
about ninhydrin. You've mentioned it, but we
haven't really described what it is. What is
ninhydrin.
A. Well, you've asked me questions about the
optical methods of examining for fingerprints.
There are also chemical methods, and I alluded to
that. The chemical methods would involve -- are
mostly used in porous material like ordinary paper.
And normally you take it in two steps. The
first step is to look for the water-soluble
components, the amino acids. And there you use
amino acid visualized in reagents, or reagents that
can visualize the amino acids.
The most common one that has been around
since the 1950s is ninhydrin, and that -- when you
apply ninhydrin to -- to a piece of paper that has 3305

fingerprint residue, and then let it dry, and over a period of time, or you could artificially use some heat and some humidity, the latent fingerprint or the invisible fingerprint turns out to be a purple image of the fingerprint. The reaction between amino acids and ninhydrin is purple, and it's -- that chemical is referred to as Ruben's purple.
Q. Is there a certain order -- if you're using two different methods to look for fingerprints, is there a certain order you'd want to choose if you're going to use the fuming method, the Scenescope, and ninhydrin. Is there a method you'd want to use first before the other one.
A. Yes. In the case in question, having to do with smooth paper, you would use the optical method first, followed by the cyanoacrylate ester fuming or the super glue fuming, and then the ninhydrin at the very end to look for the amino acids.
The cyanoacrylate fuming method does not affect the amino acids, so you could actually see them afterwards. And essentially you try to see if there are more prints. Or sometimes the fingerprints that you develop with ninhydrin are the same ones that the cyanoacrylate or super glue fuming developed.
Q. So you might find a ninhydrin print where you didn't find it with the fuming method.
A. That is possible, of course. 3306

Q. Why wouldn't you want to use ninhydrin first.
A. Because it may affect the polymerization of the super glue.
Q. You might lose some fingerprints if you did it that way.
A. That is correct. It simply involves the application of ninhydrin in a solvent. So it's that solvent that you're trying to avoid from getting onto your evidence before anything else. So that's why you do all these optical methods first.
Q. Are these methods that you've described for looking for fingerprints on smooth magazine-type paper, are they time-tested methods that are accepted by law enforcement agencies around the world.
A. As far as I know, they are.
Q. How about in the United States in particular.
A. Very much so.
Q. Okay. And how long has ultraviolet light been around used in looking for fingerprints.
A. In that reflected mode that I've been talking about -- excuse me -- it started out, I guess in the early 1970s in Japan, and then it got rekindled again in Japan in the mid '80s. And it was then that the Army forensic laboratory in Japan became aware of it. In the middle '80s, late '80s, 3307

it was brought over to this country. And we began
to use it among just a few of us in the mid ‘90s.
And then later on, toward the end of the ‘90s, it
became more commonly known to other people. And now
it’s rather common technology known throughout the
entire world.
Q. And I think you said ninhydrin has been used
for locating fingerprints for how many years.
A. Oh, that goes back to the ‘50s.
Q. How about cyanoacrylate, the fuming. How
long has that been used to enhance fingerprints.
A. In the ‘70s.
Q. And who is the manufacturer of the
Scenescope.
A. It’s -- the company that I know that made
that is Spex Industries, S-p-e-x Industries. I
think they’ve been bought by a French company, and I
just cannot recall the name of that company. But
all the times that I’ve known it as Spex Industries.
In fact, their ad still says, “S-p-e-x Industries.”
Q. And is that how you came to the attention of
Santa Barbara County law enforcement, through an
introduction from the Spex people.
MR. SANGER: I would object. That calls for
speculation.
THE COURT: Sustained.
Q. BY MR. AUCHINCLOSS: Are you sometimes
referred by Spex to act as an expert when people 3308

request expert testimony on Scenescope technology.
A. I've been asked by Spex about certain technical things to have to do with their system. And yes, I have been asked to be able to say something on the technical nature of their instrument.
Q. Okay. And as a member of the Secret Service, are you being paid anything special for today's testimony.
A. No, sir.
Q. Is this a service that the Secret Service offers to law enforcement agencies in the United States.
A. That is correct.
Q. All right.
MR. AUCHINCLOSS: Your Honor, at this time I think we have enough time to do a brief demonstration.
Q. I'll ask Dr. Cantu if he can tell me, first off, what would be a good way to do a proper demonstration of the Scenescope. Just a simple demonstration to show how it works.
A. Well, I think you have it all set up. I don't quite see the monitor to see the image.
Q. The monitor will show on that screen.
A. Oh, it will. Okay, fine.
Q. Yes.
A. All you have to do is turn the -- what I 3309

call the intensifier, that's the unit that actually does the conversion of the ultraviolet to the visible and illuminate your material. And that material is going to be -- I mean, I could get my credit card and put a print on there, and I'll show you how it actually shows through this system. Or I think -- I believe the other gentleman that was here has some demonstration sheets as well.
Q. All right. I'm going to ask you to step off the stand at this time. I'm not going to ask you any more questions. But I'll make a couple of requests. And we'll let the detective assist.
And if we could have "Input 4," Your Honor.
MR. SANGER: Before this occurs, Your Honor, I did have an objection. But in addition to that, this is not preserved. This is something that's going to be up on a screen, I suppose, and it's not preserved as a --
MR. AUCHINCLOSS: We can take a -- ask the detective to take a photograph of each exhibit. And we'll introduce it, if that's permissible. If that's agreeable.
THE COURT: Does that solve your problem.
MR. SANGER: I'm not asking it be introduced into evidence, but preserved for the record.
MR. AUCHINCLOSS: Yes, preserved for the record. That's fine.
THE COURT: They'll become exhibits. 3310

MR. AUCHINCLOSS: Can you do that.
DETECTIVE SUTCLIFFE: Uh-huh.
MR. AUCHINCLOSS: All right. I'll ask the detective at this time to find the proper setting for the VHS.
And if you please -- could you show us the fingerprint in its natural state on the Scenescope, without cyanoacrylate fuming or any enhancement. And take a picture of it when you identify that print.
Why don't you come out here where the jury can see what you're doing. Just step back.
MR. SANGER: So I take it that Mr. Sutcliffe is doing the demonstration. It was my impression that Mr. Cantu was going to be asked to do it.
MR. AUCHINCLOSS: I was going to have Detective Sutcliffe do it. There's no testimony at this time. I'm just asking him to do these two demonstrations.
What are you doing -- well, why don't you show what you're doing.
DETECTIVE SUTCLIFFE: Okay.
MR. AUCHINCLOSS: If you stand over here --
DETECTIVE SUTCLIFFE: It's just a --
MR. AUCHINCLOSS: If you would demonstrate just -- if you would, please, just take -- place a fingerprint, if you will, on that piece of magazine paper and then try and locate it using the 3311

1 Scenescope.
2 All right. Did you take a photograph of
3 that.
4 DETECTIVE SUTCLIFFE: I will.
5 MR. AUCHINCLOSS: Now, if you please, if you
6 have a fingerprint pre-prepared with cyanoacrylate
7 fuming.
8 DETECTIVE SUTCLIFFE: I do.
9 MR. AUCHINCLOSS: Would you please show that
10 and take a picture of that for the jury.
11 DETECTIVE SUTCLIFFE: There is -- actually,
12 one is circled, and I have another one --
13 THE COURT: Wait. He can't testify.
14 MR. AUCHINCLOSS: You're not sworn, so you
15 can't testify.
16 DETECTIVE SUTCLIFFE: Excuse me.
17 That's it.
18 MR. AUCHINCLOSS: All right. And if you
19 would take a picture of that.
20 Thank you, Detective.
21 And you can take this down.
22 Thank you, Your Honor. I have no further
23 questions for Dr. Cantu.
24 We'll wait just a moment while -- actually,
25 you can just leave it there and come back in after
26 the jury. Okay.
27 We'll take it down afterwards.
28 Thank you. 3312

1 CROSS-EXAMINATION
2 BY MR. SANGER:
3 Q. Okay. Dr. Cantu, how are you.
4 A. I'm doing well, thank you.
5 Q. Good.
6 You have a Ph.D. in -- I think it's
7 chemistry, is it not. What is it.
8 A. Chemical physics.
9 Q. Chemical physics. All right. From the
10 University of Texas in Austin; is that correct.
11 A. That is correct.
12 Q. Now, you indicated that you are familiar
13 with this company that makes the Scenescope; is that
14 right.
15 A. Yes, sir.
16 Q. And, in fact, you had something to do with
17 helping this company develop the Scenescope; is that
18 correct.
19 A. I did to an extent.
20 Q. And this company is in competition with some
21 other companies regarding the same kind of
22 ultraviolet technology; is that right.
23 A. It is now.
24 Q. Okay. I think last I saw, they're actually
25 suing another company for violating their patents;
26 is that right.
27 A. That's unbeknownst to me.
28 Q. Do you have -- do you hold a patent on this, 3313

1 first off.
2 A. No.
3 Q. Do you have any business relationship, or
4 have you ever had any business relationship with a
5 company regarding this kind of technology.
6 A. No. I had a relationship with a company
7 that helped develop the technology before Spex
8 bought the rights to make it.
9 Q. And what was the name of that company.
10 A. Electro Optical Systems, Incorporated, in
11 Charlottesville, Virginia.
12 Q. And did you derive -- I'm not going into
13 detail, but did you derive economic benefit for
14 that.
15 A. No.
16 Q. So you worked with that company to help
17 develop something like this, or something that
18 turned into this eventual machine; is that correct.
19 A. That is correct.
20 Q. All right. Now, in this particular case,
21 you said something about a shiny surface, and it was
22 a little unclear. Were you indicating that you had
23 reviewed fingerprints in this case from shiny
24 surfaces in this case.
25 A. No.
26 Q. Okay. So, in fact, you have not actually
27 reviewed any fingerprints in this particular case;
28 is that correct, sir. 3314

A. No, sir.
Q. Okay. And I just did one of those things I shouldn't do. I said, "Is that correct," and you said, "No." So let me ask the question. Have you reviewed any fingerprints in this particular case.
A. I have not reviewed any fingerprints in this particular case.
Q. So you're brought in basically -- you're asked to come testify basically to how the Scenescope works.
A. Yes, sir.
Q. All right. You are, nevertheless, familiar with fingerprint evaluation; is that correct.
A. In this case.
Q. Not in this case in particular, but in general.
A. I am familiar with fingerprint evaluation.
Q. Okay. You are not -- you are not a latent print examiner.
A. No, sir. I'm an expert in this particular area and the chemistry behind the development of fingerprints.
Q. And I didn't mean that in an offensive fashion, but different people do different things. You know what a latent print examiner is.
A. Yes, I do.
Q. All right. And what you have told us about 3315

1 is part of the process of doing latent print
2 examinations, correct.
3 A. About a part of latent fingerprint
4 examination, yes. I have said that I've spoken
5 about the developmental part of the fingerprint.
6 Q. Just so we're clear -- and we're almost to
7 the end of the day here, so I'll just try to take a
8 short subject.
9 Latent print examination is, what I'm
10 getting at, is a bigger subject than what you've
11 just talked to us about here, correct.
12 A. Yes, sir.
13 Q. Okay. In other words, when you look at
14 fingerprints, you've told us, for instance, that you
15 may be able to see fingerprints, they're called
16 visible prints; is that correct.
17 A. Yes.
18 Q. And that's because somebody put their finger
19 in paint or something, and you can just see it,
20 correct.
21 A. Correct.
22 Q. It could be any other substance that allows
23 it to be visible. You might have what are called
24 plastic prints; is that correct.
25 A. I gave you a couple of examples of that.
26 Q. Please.
27 A. No, I said I gave a couple of examples.
28 Q. I thought you said you would give. 3316

But, for instance, a plastic print might be somebody who puts their finger in clay, and you can actually -- the ridges are actually transferred onto the clay; is that correct.
A. I believe I gave that example. That, and putty are the two examples I gave of the so-called plastic or mold fingerprints.
Q. And then the next category is the latent print. That's the print that you cannot see unaided; is that correct.
A. That was -- yes, sir.
Q. And you told us in general about different processes by way -- by which you can get the latent prints so that you can make them capable of being examined; is that correct.
A. Make them visible, yes.
Q. Visible. So that can either be by light sources, for the ultraviolet light sources, or it can be chemical; is that correct.
A. And physical.
Q. And physical. "Physical" being.
A. Like powder techniques.
Q. Okay. I see. You wouldn't call that part of chemical. You'd call that --
A. No, it's adherence. It's an aspect of chemistry in a way. In fact, cyanoacrylate deposition of the polymerization is a physical chemical type of process. 3317

Q. Because it actually not only chemically
reacts so that you can see the prints better, but it
also actually enhances the structure of whatever is
there so that it is more visible; is that correct.
A. That's the super glue fuming, yes.
Q. Super glue fuming, yes. All right.
Now, ultimately fingerprint examination and
comparison, when you go beyond what you're talking
about, which is developing prints so that you can
see them, in essence, fingerprint comparison and
examination is a subjective enterprise, is it not.
A. Fingerprint --
MR. AUCHINCLOSS: I'll object as beyond the
scope. There's been no testimony about comparison.
THE COURT: Overruled.
Q. BY MR. SANGER: It's subjective, is it not,
sir.
A. I'm afraid I could not answer that, because
it's not part of my expertise.
Q. Okay. You have spoken on the need in recent
years to increase the validation studies for the
purpose of enhancing fingerprint examination, latent
fingerprint examination for court purposes; is that
correct, sir.
A. No, I have not spoken on that. I've been
invited to be at meetings where they're speaking
about that.
Q. Okay. You participated in conferences. 3318

A. Yes.
THE COURT: Counsel, it’s the end of the day.
MR. SANGER: Very well.
THE COURT: See you tomorrow morning.
(The proceedings adjourned at 2:30 p.m.)
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REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 3168 through 3319 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 23, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, March 23, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304